

NOV - 5 2007

Info #1

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, October 17, 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 Cason.
3. The following Commissioners answered Roll Call:

Chairman Michael Flanders  
Vice Chairman Mark Irby  
Commissioner Gulsvig  
Commissioner Creedon  
Commissioner Cason  
Commissioner Rivers

Also Present:

Mr. Kevin Mayo, Principal Planner  
Ms. Jodie Novak, Senior 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 **COMMISSIONER GULSVIG**, to approve the minutes of the October 3, 2007 Planning Commission Hearing. Minutes were approved 6-0.
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 three action items, items B, G and H.

**MR. KEVIN MAYO, PRINCIPAL PLANNER**, stated the following items are on the consent agenda along with any additional stipulations.

A. PDP07-0014 LMA MIXED-USE HOTEL DEVELOPMENT

Request Preliminary Development Plan (PDP) approval for site layout and building architecture for a hotel development on approximately 4.3-acres located at the southwest corner of the Loop 202 Santan Freeway and Price Road.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "LMA MIXED-USE HOTEL DEVELOPMENT" kept on file in the City of Chandler Current Planning Division, in file number PDP07-0014, except as modified by condition herein.
2. The landscaping in all open spaces and rights-of-way shall be maintained by the adjacent property owner or property owners association.
3. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls.
4. Sign packages, including free-standing signs as well as wall-mounted signs, shall be designed in coordination with landscape plans, planting materials, storm water retention requirements, and utility pedestals, so as not to create problems with sign visibility or prompt the removal of required landscape materials.
5. Completion of the construction, where applicable, of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details, and design manuals.
6. 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.
7. The monument sign's sign panels shall have an integrated or decorative cover panel until a tenant name is added to the sign.
8. The applicant shall work with Staff to incorporate materials and forms found upon the building onto the freestanding monument signs.

C. DVR07-0012 LAYTON LAKES

Request rezoning from Planned Area Development (PAD) to Planned Area Development (PAD) amended to eliminate a zoning condition requiring copper supply plumbing for a residential Master Plan located on approximately 320-acres at the southwest corner of Lindsay and Queen Creek Roads.

1. **Potential home buyers are to be notified that PEX piping will be used for plumbing within the house.**

D. DVR07-0044 CHAPMAN BMW

Request rezoning from Planned Area Development (PAD) to Planned Area Development (PAD) Amended with a Mid-Rise Overlay for additional building height. In addition, request Preliminary Development Plan (PDP) amendment approval for the building architecture of an automotive sales and service development on approximately 6.5-acres located west of the southwest corner of 54<sup>th</sup> Street and Orchid Lane (1/4 mile north of Ray 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. DVR07-0044 CHAPMAN BMW OF CHANDLER.
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. All future signage shall be consistent with the signage contained within the attached exhibits with regards to sign type and quality. Any deviations shall require separate Preliminary Development Plan approval.
6. 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.
7. All raceway signage shall be prohibited within the development.
8. The landscaping shall comply with the Commercial Design Standards.

E. PDP07-0016 TGI FRIDAY'S (CROSSROADS TOWNE CENTER)

Request approval to amend the Preliminary Development Plan (PDP) at Crossroads Towne Center for an existing restaurant. The property is located at 2920 E. Germann Road, about an 1/8 of a mile south of the Loop 202 Santan Freeway on the west side of Gilbert Road.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "TGI Friday's Crossroads Towne Center," kept on file in the City of Chandler Planning Services Division, in File No. PDP07-0016, except as modified by conditions herein.
2. The site shall be maintained in a clean and orderly manner.
3. The patio shall be maintained in a clean and orderly manner.
4. The awnings shall be constructed of a metal similar to the metal awnings applied to buildings within the development.
5. The awning stripes shall utilize a 'brick-red' darker red shade consistent with the existing brick material found elsewhere within the Crossroads Towne Center.

F. PDP07-0022 DESERT SUN CHILD DEVELOPMENT

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.

1. Development shall be in substantial conformance with the attached exhibits, and kept on file in the City of Chandler Planning Services Division, in File No. PDP07-0022, except as modified by condition herein.
2. The storage shed shall be designed to be architecturally integrated with the exhibits provided for the school-related buildings.

3. **The building colors shall match the existing building color palette.**
4. **The fire lane shall be maintained in a clean and orderly manner.**
5. **The landscaping for the subject site shall meet the commercial development standards for the street frontage along Elliot Road.**

I. UP07-0058 LATITUDE 8

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. **(REQUEST CONTINUANCE TO THE NOVEMBER 7, 2007 PLANNING COMMISSION HEARING.)**

J. UP07-0061 BASHA HIGH/T-MOBILE

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.

1. Expansion or modification of the use beyond approved exhibits shall void the Use Permit and require new Use Permit application and approval.
2. There shall be two live Date Palm trees installed and maintained adjacent to the monopalm. The trees shall be of 25' and 30' heights at the time of planting and shall match the monopalm's appearance.
3. The landscaping shall be maintained at a level consistent with or better than at the time of planting. The site shall be maintained in a clean and orderly manner.
4. The monopalm shall be limited to 50' in height.

K. UP07-0072 WAL-MART (ALMA SCHOOL & WARNER RDS.)

Request Use Permit approval to allow liquor sales under a Series 9 Liquor Store license for the sale of all spirituous liquors for off-premise consumption. The property is located east of the northeast corner of Alma School and Warner Roads.

1. The Use Permit is for a Series 9 liquor license only, and any change in type of license shall require reapplication and new Use Permit approval.
2. Expansion beyond the approved Floor Plan 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 maintained in a clean and orderly manner.

L. UP07-0074 WAL-MART NEIGHBORHOOD MARKET (WARNER & MCQUEEN RDS.)

Request Use Permit approval to allow liquor sales under a Series 10 Beer and Wine Store license for the sale of beer and wine only for off-premise consumption. The property is located at the southwest corner of McQueen and Warner Roads.

1. The Use Permit is for a Series 10 liquor license only, and any change in type of license shall require reapplication and new Use Permit approval.
2. Expansion beyond the approved Floor Plan 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 maintained in a clean and orderly manner.

M. UP07-0088 MAJERLE'S SPORTS GRILL

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. The property is located at 3095 W. Chandler Boulevard at Chandler Fashion Center mall south of the southeast corner of Metro Blvd. and Chandler Blvd.

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.

N. UP07-0089 FOOD CITY OUTDOOR GRILLING

Request Use Permit approval to conduct outdoor grilling adjacent to an existing grocery store. The store is located at the northeast corner of Ray Road and Arizona Avenue.

1. Substantial conformance with approved exhibits (Site Plan, Narrative) except as modified by condition herein. Expansion or modification beyond the approved exhibits shall void the Use Permit and require new Use Permit application and approval.
2. The Use Permit is non-transferable to any other location.
3. 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.
4. **The outdoor grilling area shall be maintained in a clean and orderly manner.**

O. PPT07-0035 PECOS PARCEL

Request preliminary plat approval for a replat of three single-family residential parcels located north of the Santan Freeway and west of Chandler Village Drive.

**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 that there are three action items, item B, G and H.

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 CREEDON**. The consent agenda passed unanimously 6-0.

**ACTION:**

B. DVR07-0010/PPT07-0005 LAYTON LAKES PARCEL 18

Request rezoning from Planned Area Development (PAD) for attached town homes to Planned Area Development (PAD) amended, with Preliminary Development Plan (PDP) and Preliminary Plat (PPT) approval for a medium-density detached single-family residential subdivision located on approximately 12-acres within the Layton Lakes Master Plan at the southwest corner of Lindsay and Queen Creek Roads.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "LAYTON LAKES PARCEL 18" kept on file in the City of Chandler Current Planning Division, in file number DVR07-0010, except as modified by condition herein.
2. Right-of-way dedications to achieve full half width for Layton Lake Boulevard, 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. 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.
6. 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.
7. Homebuilder will advise all prospective homebuyers of the information on future City facilities contained in the City Facilities map found at [www.chandleraz.gov/infomap](http://www.chandleraz.gov/infomap), or available from the City's Communication and Public Affairs Department.
8. The covenants, conditions and restrictions (CC & R's) to be filed and recorded with the subdivision shall mandate the installation of front yard landscaping

- within 180 days from the date of occupancy with the homeowners' association responsible for monitoring and enforcement of this requirement.
9. The applicant shall work with Staff to provide additional shaded pedestrian seating areas such as but not limited to seating benches with specimen shade trees.
  10. The applicant shall work with Staff to provide additional treatments such as decorative window mullions, materials, and elements to the rear elevations of each floor plan, similar to treatments found on the front elevations.

**KEVIN MAYO, PRINCIPAL PLANNER**, stated this is a request for rezoning from Planned Area Development (PAD) for an attached townhouse development to PAD amended with Preliminary Development Plan approval and Preliminary Plat approval for a medium density detached single-family residential subdivision on approximately 12 acres located within the 373 acre Chandler portion of the Layton Lakes Master Plan and the southwest corner of Lindsay and Queen Creek Roads. This is a rezoning from an attached residential product type to a detached product type. The overall density for this remains the same. This is a 102 unit, green court detached residential subdivision. It does bring with it smaller lots. The lot size range from 2278 square feet to 3280 square feet. This type of product has homes fronting onto a pedestrian Paseo. The front doors force the neighbors to be engaged into the common open space and really highlights this type of product. That common open space all leads to the larger common open space areas including the pool and other recreational use areas as well as to the extensive lake and stream system that the overall Layton Lakes Master Plan included. This comes forward with three floor plans each having three elevations. The floor plans range in size from 1507 to approximately 1900 square feet. This product is all two-story and the applicant has worked hard to break up the front and rear elevations with one-story elements and other projections with recessed windows in an attempt to diminish some of the impact that all two-story homes have on a development like this. In addition, they bring forward (attached in the development booklet) enhanced elevations that in the event these homes side up to the internal street system, Layton Lakes Boulevard or even common open space, they will utilize these enhanced elevations that even further architecturally break up the sides of these two-story homes. The homes that are arranged front directly out into that lake and stream system of Layton Lakes as well as a good portion fronting into the internal landscaped open space. This layout has done a good job of minimizing the number of homes that actually front or impact Layton Lakes Boulevard so you don't get the strong of presence of a bunch of two-story homes. In reality you feel basically seven homes along Layton Lakes Boulevard. Initially Staff had some concerns about doing all two-story product on this parcel, however, once we put it into context this is 12-acres of 373 acres of the Chandler portion of the 830-acre Layton Lakes Master Plan. It's really a small kind of blip of the Layton Lakes Master Plan and just offers one additional layer of housing product options for Chandler's residents. They do recommend approval and they do have some additional conditions that have been added through some feedback from Commissioners. The passive recreational areas within this development needs a little bit of additional pedestrian seating areas for moms and kids

that are walking and have a benches and some shade trees or shade structures. They have added condition no. 9, which reads as follows:

**9. The applicant shall work with Staff to provide additional shaded pedestrian seating areas such as but not limited to seating benches with specimen trees.**

If you look at the front elevations of the homes there are some architectural elements that aren't necessarily considered expensive elements but are very worthy to be placed on the rear of the homes where a lot of people will be feeling this type of product on a more day to day basis when they are coming and going from their garage. Condition no. 10 reads as follows:

**10. The applicant shall work with Staff to provide additional treatments such as decorative window mullions, materials and elements to the rear elevations of each floor plan similar to treatments found on the front elevations.**

Again with those extra conditions, Staff does recommend approval.

**CHAIRMAN FLANDERS** stated that in regards to stipulation no. 10 there was some stuff that he had worked through with the applicant in regards to those elevations. Is he in full agreement with those little added design changes? Mr. Mayo answered yes and that the applicant got a copy of the exhibit that they change those exhibits. On the whole the applicant is perfectly fine with all of them. Chairman Flanders asked if there were any questions of Staff.

**COMMISSIONER CREEDON** asked that this whole concept with the garage in the rear and the front facing to the open space was there any feel for how receptive people are to this design? She assumed that they weren't going to build it, of course, if it hasn't been fairly popular.

**KEVIN MAYO** said he would defer that to the applicant so that they could talk about their marketing. He also said she was right that the concept of having an alley-loaded product with the fronts facing onto some type of green open space is not new. It does take a certain type of person to live there. Most people that are more secluded don't want to be in something like this. You don't have your traditional big back yard. Your back yard is that common open space. It is a specific person that wants to try these. They haven't found that the existing ones that they know of don't work. They seem to work just fine. It just caters to a certain aspect of the market.

**VICE CHAIRMAN IRBY** asked that when you look at a typical plot plan you see that there is a side yard, which is a private side yard that's basically the property line that runs between the two structures, but the yard is just for the one unit. He is curious about the liability and/or restrictions on how somebody uses that yard when it is technically off their property? Mr. Mayo answered that it is handled through what they call a use and benefit easement and that easement is in place on that one property for the use and benefit

of the property next to it. The property lines are established for building code reasons for where that house sits and the one-yard may take advantage of five feet on one property and five feet on theirs where they still have a ten-foot side yard. But it is established through Use and Benefit Easements. What if somebody puts a barbecue up against his or her neighbor's house? He was curious in terms of liability or if somebody decides they are going to dig a pond on that side and it leaks into the adjacent structure. He was wondering about those issues. Mr. Mayo said he would have to defer to the applicant.

**CHAIRMAN FLANDERS** said he was going to the applicant and asked him to please step forward and state his name and address for the record.

**BRENNAN RAY, 702 E. Osborn Road**, here on behalf of the applicant Lennar Communities. He stated that first before he responds to some of the questions that have been asked of them, they would like to thank Staff and others that they've worked with. They believe they have worked closely to achieve a product and a design that is consistent with the overall Layton Lakes Master Planned Community concept. They believe it makes a lot of sense in terms of location it being centrally located within the site and being accessible to the surrounding areas. The commercial to the north and as you look on the context plan that's in the front of your project booklets, you will see there is reasonable access to the community park to the south – a future school, a church site, etc. They believe it makes a lot of sense and provides a good housing alternative for those. They appreciate Staff's recommendation for approval and they are o.k. with the stipulations. As it pertains to some of the questions that were asked as to how receptive they think it will be, Lennar Communities has actually done this product elsewhere in the valley up in Stetson Hills. He introduced Jeff Gunderson with Lennar Communities. It is his understanding that it has been well received up there. They are marketing Parcel 18 a little differently with more turf and open space and a little bit nicer than they did up in Stetson Hills. It's something they believe will work in here and as he mentioned, fits into the overall scheme and concept of Layton Lakes walk ability as was mentioned by Staff and have the ability to access not only the community within itself but the surrounding community as well. Hopefully, that addresses your question. If not, he can get back to them. He thinks Commissioner Irby also had another question as it pertained to the side yards and how it works with the plot plans. As correctly pointed out by Kevin there is a Use and Benefit Easement and part of the terms of those easements are that nothing can attach to the adjoining structure. Another condition is that there is no turf within these side yard areas. They believe that those plus with the addition of the amenities that are occurring on the site, barbecues and ramadas and other things, will help get people out of the side yards and into the community. They will be able to limit the liability that the adjacent homeowner might have through the Use and Benefit Easement.

**VICE CHAIRMAN IRBY** said he was just wondering if there was something in the CC& R's that dealt with those types of issues.

**JEFF GUNDERSON, LENNAR COMMUNITIES**, stated that they are building this exact product up at Stetson Valley and they have gone through this process before in recognizing all the pitfalls that occur in these Use Benefit Easements. They will take of the Use Benefit language in a number of different ways. The Use Benefit Easements will show up on the final plat and there will be restrictions in the CC&R's and a sub association to the overall Layton Lakes Association for this particular parcel. It will go over things like liability issues and there will be a liability waiver for the person that has a Use Benefit Easement. They don't put turf in because they don't want to have any overspray issues. They are not setting these side yards up to create issues with their homeowners and they want to be very careful and very particular that we get those covered in a number of different areas on the final plat and the CC&R's. They feel they have had enough experience to this point where they picked up on most of the issues. They also have divisions in California that build this type of product and they have been able to rely on the experiences that they've had out there. He doesn't have exact sales numbers for Stetson Valley but they have been very successful. He doesn't know if they are exactly sold out yet but all of the home sites have been started up there. It's been well received.

**VICE CHAIRMAN IRBY** said that in Section 2 there is a diagram that looks like there are 2 side yards. Mr. Gunderson believes the site plan is set out to where there is only a one-person side yard, but in a few locations you have one everywhere they have to switch the side product so they can utilize the enhanced elevations. Vice Chairman Irby said he likes the idea of a side yard and that it helps make it a more livable product and such. He has seen a lot of these products where they are just town homes and they are crammed up against each other. Mr. Gunderson said they are utilizing it for a couple of reasons. The concept is to utilize these side yards to keep the trash bins in which does free up both garage stalls for owners to put two vehicles in their garages. If they didn't do something like that they would keep their trash bins inside the garage making it a one-car garage. The other reason they really like these is because most of the people and most of the uses that they have noticed up at Stetson Valley is that people just like a place to keep a barbecue and maybe a little seating area or a very small hot tub.

**COMMISSIONER CASON** stated to Brennan Ray that they had a discussion of the viability of this type of plat. He asked him if he could share with the Commission some of the reasons that he has found that makes this type of product work at Layton Lakes? Brennan Ray said he had mentioned it a little at the beginning but he can go into a little more detail. As they look at the overall Layton Lakes concept and how it came to be, as Kevin pointed out, the actual development is 800 acres. There are approximately 373 acres in the Chandler portion. It spans Chandler and Gilbert. One of the things in looking at the big picture is that this was to be a walkable community; a community where people would be able to get out and take advantage of the lakes and stream systems and to be able to take advantage of the green belts and the trails. It provides a unique opportunity to provide a little higher density for product diversity within the overall Layton Lakes Community and it provides housing opportunity for those people who might not necessarily be able to live in a place like this. Overall, you have this

theme. This Parcel 18 as they look at it has been designed around the walk ability concept where you've got the garages oriented to the green spaces providing people safe interaction and access to the amenities. For people who want to access the pool and the other active open space passive areas within the community itself, they are able to do so in a safe and efficient manner. Additionally, they can access safely the lakes and stream systems through these portals and access points. Again, it's something that fits in the overall scheme of things and clearly is designed to funnel people within the establishment. As he mentioned earlier, going to the school, going to the church and to the commercial activities and commercial centers to the north. Depending on how those commercial centers are developed will certainly enhance or at maintain the levels of activity that Lennar is expecting to have through it. He knows that his own personal experience as he lived in a similar community in the middle of farmlands. They had farms to the east, south, west and north and it was a detached product like that and he found in his own personal experience that in going out they saw kids interacting. He believes this is a concept that will work within the overall community and has been designed specifically to make it work. He knows there are other examples out there where the way it has been designed it was almost an after thought. Clearly, there is a lot of forward thinking on the part of Lennar to be able to design it in this fashion. He said he hopes this explains a little bit more of their concept.

**COMMISSIONER CASON** said yes it does and thank you.

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

**COMMISSIONER RIVERS** said he was a little confused by two different diagrams. He asked the typical side yard width is how big? If he buys a house here, he has a side yard that he can put a barbecue, two recycle bins and small hot tub on— how wide is that yard? Brennan Ray said 10 feet is the physical space. Five feet is what is legally owned. Mr. Gunderson from Lennar said 10 x 20 is the standard width. Commissioner Rivers said because he was looking at the one on the back of what they had printed out and it is showing 2 side yards coming together and they are having a point where people are talking over the fence to each other. Brennan Ray asked what photos he was looking at in the packet. Commissioner Rivers said he was looking at figure 12. From each house you only have access to one side yard, correct? In other words, you don't have a side yard on each side of the house that you can do something with? Mr. Gunderson and Brennan Ray said that was correct.

**CHAIRMAN FLANDERS** went to the audience to see if there was anyone in the audience who cared to speak in regards to this item.

**COMMISSIONER CASON** stated that the reason he asked this to be pulled was his concern about the actual plat of the property. He can think of three instances locally where this type of design doesn't work. One of them would be on Ray Road, Knox Road and the third one on Mill Avenue north of the Superstition on the east side of the road. In all three cases they are more of a like in a row rather than being in a developed

community such as this and all of them are of a vintage age. The youngest is 18 or 20 years old and if you go into these locations, the front yards are never used. There are cobwebs on the front doors, dust all over the place. It's obvious that nobody ever uses the green belt and people come and go out of the back. He said he thinks this is a great looking presentation and he thinks it should be approved. His largest concern is that what works is Layton Lakes because of the way the overall plan is put in place, the additional walking spaces and the fact that it aligns very nicely with the overall plan, that this might not work in other places in the city. When they are in the position of running out of land and trying to come up with creative and innovative and in some cases to what's worked in the past, ways of creating medium density housing that will create these plats that have no mans land or however you want to characterize it, where nobody goes out there for whatever reason. He just looks at this and thinks he would hate to see this happen because he has seen it happen in the past and it's not a pretty site. He's just hoping that as the city goes forward and receives new applications for this type of product that they seriously look at the ability for the product to be able to really support its goal of promoting traffic within the greenbelt areas and not just saying all that greenbelt looks nice and conceptually people will use it. He thinks he has seen more instances where it doesn't work than it does. It would be inappropriate for him to say yea or nay on this project based on his own anecdotal observation. He thinks that wouldn't be fair. He thinks as a Staff they have the potential to be able to look at these things in a more broader context and see how they fit into the community and see how they will be used in the future, plus they can go back and monitor things that they have approved in the past and find out what's wrong with them and if they are in fact working efficiently for socializing people and bringing them together. Commissioner Cason thinks this is a perfect example for them to be able to make that line in the sand where they can say this will work but will it really work someplace else. Let's go back and look and see if it's worked in the past.

**COMMISSIONER CASON** made a motion to approve item B with added stipulations as read in by Staff, seconded by **COMMISSIONER CREEDON**. The item passed unanimously 6-0.

**ACTION:**

G. UP07-0025 TRI-LITE BUILDERS

Request Use Permit approval to operate a general contractor business in a residential zoning district at 1650 E. Twin Acres Drive, approximately ¼ mile south of Queen Creek Road and 1,640 feet west of Cooper Road.

1. Expansion or modification of the use beyond approved exhibits shall void the Use Permit and require new Use Permit application and approval.

2. 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.
3. The applicants shall pave the driveway and provide nine (9) dust controlled striped parking spaces, including one (1) ADA accessible parking space, set back 20 feet from Eagle Drive.
4. Any outdoor storage of materials and equipment shall be screened with cmu block and/or landscaping.
5. Cabinet manufacturing and woodworking shall be prohibited.

**BILL DERMODY, CITY PLANNER**, stated this is a request for a Use Permit approval to operate a business out of a residential home located south of the airport. He showed a map of the area. The airport is to the north across Queen Creek Road, McQueen Road is about ½ mile west and Cooper is about ¼ mile east of this subdivision. Twin Acres, is the area he outlined which is a large lot, rural residential subdivision annexed in 1993. All the lots are approximately 2-1/2 acres in size. Tri-Lite Builders has existed at their location in the southeastern portion of Twin Acres since before the 1993 annexation. The business in itself would therefore be grandfathered but they have expanded since that time and added employees and that's the reason they have to come forward for a Use Permit. They have five employees who regularly work out of this business and five others who only work on the job sites. They are a contracting company. They have tool and equipment storage on site, offices on site and a small showroom. All of their building materials go directly to the job site and are not stored at this location. They have had several Use Permits in this area in Twin Acres including S5 Electronics, which operates out of a barn there and has no employees outside of the business owner and also horse boarding. There are several horse-boarding operations in the area. Staff recommends denial of the request for the Use Permit for Tri-Lite Builders for a couple of reasons. They often recommend approval for Use Permits when the impact is indistinguishable from residential uses or is rural in nature and would be expected in this type of neighborhood. A couple of examples would be S5 where they work out of a barn. They have no employees and maybe one UPS truck comes once per day. They judge that to be virtually indistinguishable from anybody just living there as a resident and not a business. Also, the horse boarding they have found to be compatible because horses are a natural part of this environment. In the case of Tri-Lite builders they don't find either of those things to be true. It's an office, it's a business, it's not rural in nature and it brings employees to the site (5 at a time) plus the business owners. They find that type of traffic in this neighborhood to be incompatible. They recommend denial for that reason. They have also found in other locations and with other businesses that if a business goes into a residential neighborhood, they can often become entrenched there. The costs are lower to operate out of a residence than out of a commercial center where they feel they are best suited. For that reason, there is sort of a profit hurdle to get over. You have to make a certain amount of money before you can afford to move to a proper location. Often times for that reason, in addition to customer recognition, a business can be stuck in a residential neighborhood forever. Tri-Lite Builders long-term plan they have told us is to

move out of the area. When they grow, they plan to move. We recognize that in reality that can be quite difficult. There was a neighborhood meeting. Several neighbors attended all in support. They have twenty letters to support it attached to the memo - nobody in opposition and a strong, nearly unanimous support in this area. Again, Staff recommendation is for denial.

**CHAIRMAN FLANDERS** asked if there were any questions of Staff.

**COMMISSIONER RIVERS** said he asked Mr. Dermody to bring a map, which would show in detail the street because he would like to know where the neighbors who support the property are. Mr. Dermody showed the Twin Acre subdivision. Queen Creek is just off of the screen to the north. The houses farther south are at the bottom of the screen. The green property is Tri-Lite Builders and they operate out of their northern building here and live in the southern building. They are green. Everything that you see on the map that is in blue is an address of where they got a letter of support. Anything that's not highlighted in either color they didn't hear from one way or the other.

**COMMISSIONER CREEDON** asked if they were to consider a Use Permit with a 3-year time frame would that allow Staff then the opportunity to re-evaluate where they are at in terms of their 5 year plan and perhaps if they have expanded or not expanded. Mr. Dermody replied that they recommend denial even if they don't expand. They find this to be incompatible. However, if it were approved, they would certainly recommend that you put a time limit of some kind for that reason for evaluation.

**GLENN BROCKMAN, ASST. CITY ATTORNEY**, said he had a question for Staff. He said to Mr. Dermody that in the Staff memo there are some references to the Fire Marshall having determined that many of the fire related standards need not apply in this situation given that the business is a temporary use. Mr. Dermody replied that was correct. He did not touch on this in his presentation but they asked the applicant's to go through a preliminary technical site plan review to see what typical commercial standards they meet or do not meet. There were a number of fire standards that they don't meet. Mr. Brockman said his question was that the Fire Marshall considers this a temporary use, but Staff is indicating that this use has been there since 1993. Mr. Dermody said that was correct. They have taken this specific case and not the commercial standards in general and told them a number of things about the business including that they intend for it to be temporary. That was part of his reasoning for saying that not all the fire standards need to be met in this case. Mr. Brockman said his determination of temporary use was based on Staff representation that the landowner intended it to be temporary. Mr. Dermody said that was correct. Mr. Brockman said the other part where it says the building itself has not expanded since annexation, are they saying the building hasn't expanded or the use has expanded? Mr. Dermody said the use had intensified and the number of employees had gone up.

**CHAIRMAN FLANDERS** went to the applicants and asked them to please step forward and state their name and address for the record please.

**WAYNE AND LINDA MINDY, TRI-LITE BUILDERS**, stated he wanted to read through a narrative that they sent in that hits on important items. As a homeowner living and working out of their home they are sensitive to the aesthetics of the neighborhood and are considerate of all their neighbors. They keep their home and office areas cleanly landscaped. From the first impression you would think that their office is just another home in the neighborhood. They have also brick veneered the wall of the office that faces the road to match our home. Mr. Mindy said they have lived there 15 years and have never had a complaint. They've run their business out of their home for that time. For about 10 years they were basically a home based business where it was just himself and his wife; maybe a laborer every now and then. Now they have employees and certainly understand the city's role too. They have a five-year plan that basically puts us out of that area – they won't be there anymore. Maybe it will be even quicker than that. They have contacted and met with Christine Mackey to identify some possible acreage areas. He said he has also called the person that owns the acre on the corner of McQueen and Queen Creek. He is currently working with him. He said he doesn't have any pricing put together yet. It is still in a real preliminary stage.

**CHAIRMAN FLANDERS** asked them if it is their intention to move off of the property as far as your business goes? Is their time frame five years? Mr. Mindy replied said you know how your time lines go. They have focused on three to five. He asked if there were any more questions of the applicant.

**COMMISSIONER CREEDON** asked if they would be uncomfortable with a three-year time frame should this Commission approve that? Mr. Mindy said no. Commissioner Creedon said that the conditions they've stated in the Staff outline has a number of improvements including the parking and paving of the driveway and would they still be comfortable with that even though this is somewhat temporary? Mr. Mindy said the minimum amount that they require and he has talked to Bill and said they would comply.

**VICE CHAIRMAN IRBY** asked Mr. Mindy if he had a yard somewhere else? They don't store equipment or materials on site? Mr. Mindy said once in a while they might have a Fed Ex truck come in or whatever. Most of it is all delivered to the job site. Vice Chairman Irby said in looking at one of the photographs in the packet shows a large storage trailer. He can't tell from the photo. If it's the two cargo trailers on the north side they are currently have tools and those sorts of things in them. They also have a couple of dump trailers that they take out on the project when they are remodeling. His concern on this case is that he is an architect and deals with tons of contractors and he has been to their storage yards and homes from time to time and has yet to see one that is maintained in a very neat fashion. He has been there neighborhood in the past on some other cases and said his property doesn't stand out in his mind as being an eyesore. He finds equipment such as backhoes and other types of equipment lying around that may be out on the job site but ends up in somebody's side yard or back yard. He is concerned about that aspect of that of your facility. The other aspect is the term temporary. People say they want to move in three years and expand but it is not always easy to do. Those

are some of his concerns. He said if they do approve it, it would be a maximum three-year stipulation. He is thinking about another stipulation that they will continue dealing with the no storage of materials or equipment exposed - if they are stored in the garage or somewhere. Mr. Mindy replied they have plenty of room in the open area. They used to have a cabinet shop but they were told they couldn't leave that so they had that closed down. So they have all this room to store stuff and they don't have anything to put in it. Vice Chairman Irby asked if the two cargo storage units are planning on staying? Mr. Mindy replied for the time being. Their neighbor actually likes them there because they train horses next to it and it blocks out the activities on our side and they can train easier. He has asked them not to move them and not to plant any trees.

**COMMISSIONER CREEDON** stated she did contact several of the neighbors who left their phone numbers for her. They were all very, very complimentary of how well they maintain their property. She did share that she appreciated their comments and would share that with you as well. She said she hopes that alleviates some of their concern.

**COMMISSIONER GULSVIG** asked Staff if there is a three-year stipulation will they have the Fire Marshall change his opinion or hold to the same assessment about this or will he ask them to make some changes? Mr. Dermody said the Fire Marshall would hold his assessment. They had represented this as a use that would be around less than five years. This would fit with what he was representing.

**COMMISSIONER GULSVIG** said to the applicant that this is a very clean environment. He wanted to compliment you on your contribution the habitat for humanity.

**COMMISSIONER CASON** said he didn't think that he had to tell you how volatile the home construction business is. If their business remains static and it doesn't expand, would they still move within five years? In other words, if you lost employees and you were down to just a couple of employees and your business didn't really grow, would you look to come back to us and still continue to work there even though there is no reason for you to expand? Mrs. Mindy said the other reason they are looking to move is because they anticipate selling that business and they know it would be advantageous if it had it's own space and they know it can't be on their property. They would not want it on their property. So regardless of whether they add Staff or not, that's the long-range plan and that is why they are looking.

**COMMISSIONER RIVERS** said he is just curious why they were so quick to answer that they are not comfortable with a three-year use permit. Mr. And Mrs. Mindy said they are comfortable with that. Commissioner Rivers said he totally misunderstood.

**VICE CHAIRMAN IRBY** asked Staff to explain where they are deficient as far as the Fire Marshall is concerned? Mr. Dermody replied that typical commercial business would have to have a number of items that this doesn't. One would be sprinklers on the inside of the building; another big one would be paved access out to Queen Creek Road.

That entire Eagle Drive all the way up would have to be paved. Also, there would have to be two points of access so they would have to bring their driveway through past their house over to Twin Acres Drive. There might be some more minor ones but those are three big deficiencies that would normally be applied to commercial businesses. Vice Chairman Irby asked on a Chandler commercial facility no matter what the square footage is it required it to be sprinkled? Mr. Dermody said if it is over 3000 square feet which this one is. Vice Chairman Irby said he was surprised with them calling it temporary he has yet to have a project of mine still not meet those kinds of requirements. That's why he was curious to what those issues are.

**CHAIRMAN FLANDERS** asked if there were any other questions of the applicant. He asked the audience if there was anyone who would care to speak in regards to this item. There were none so he closed the floor and entertained a motion.

**VICE CHAIRMAN IRBY** said he doesn't have a problem with a three-year time limitation on it. He would still like to see some stipulation added that there be no exterior storage of materials or equipment unless they are screened from view. It could be done by landscaping or a fencing material. He doesn't want to see this thing turning into a collection of equipment and materials.

A motion was made by **COMMISSIONER CREEDON** to approve item G with added stipulation as read in by Vice Chairman Irby, seconded by **COMMISSIONER GULSVIG**.

Mr. Dermody said he would read the added stipulations:

1. **The Use Permit shall remain in effect for three 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.**
2. **The driveway shall be paved and striped so as to provide 9 dust controlled parking spaces and 1 ADA accessible parking space set back at least 20 feet from Eagle Drive.**
3. **Any outdoor storage area shall be screened with CMU block and/or landscaping.**
4. **Cabinet manufacturing or other woodworking on the property shall be prohibited.**

**VICE CHAIRMAN IRBY** wanted to know if they could add any storage of materials and equipment to stipulation no. 3. He wants to make it clear that they don't somehow think that equipment is excluded. Mr. Dermody said stipulation no. 3 shall read:

“Any outdoor storage of materials and equipment shall be screened with CMU block and/or landscaping.”

**CHAIRMAN FLANDERS** said he had a motion by **COMMISSIONER CREEDON** for approval, seconded by **COMMISSIONER GULSVIG** with the additional stipulations as read in by Staff. The item passed unanimously 6-0.

H. UP07-0055 COMPASS FIRE & SECURITY

Request Use Permit approval to operate an alarm and security system business in a residential zoning district at 635 E. Ironwood Drive, approximately 800 feet south of Knox Road and ½ mile west of McQueen Road.

Planning Commission and Staff, upon finding inconsistency with the General Plan and Planned Area Development (PAD) zoning, recommend denial.

**BILL DERMODY, CITY PLANNER**, stated this is a request for Use Permit approval to operate a fire and security alarm business out of a single-family residence located in a neighborhood northeast of Food City, northeast of the intersection of Arizona Avenue and Ray Road. This is a residential house surrounded by other similar residential houses on approximately seven thousand square foot lots. The owners of this particular house live elsewhere but rent out most of the house for residential purposes. Part of the house is also used for an office for this aforementioned business. They have two employees plus the two owners who work out of a couple rooms of the house. They have an office and a draft table that they use on site. However, there are no commodities kept on site, all of the alarms and security trinkets are sent directly from a warehouse to the job site and are not stored here. Our City Code does allow certain types of home businesses by right in residential neighborhoods if they meet a number of criteria. Those criteria include that there are no employees and that the business owners live at that residence. Those two items aren't met in this case thus requiring a Use Permit. Staff recommendation in this case is for denial for a couple of reasons. Certainly quasi-residential commercial uses have been recommended for approval and approved in the past in neighborhoods such as these - especially childcare and adult care come to mind. Those are types of uses that function much like a residence. Childcare is a normal residential function, adult care is a normal residential function and although traffic is always taken into account, they have found that the impact in those cases to be similar to any other residential house. However, in this case Staff finds that an office use is a different type of traffic bringing those employees in is different that a residential use. That type of office traffic is incompatible in an established residential neighborhood such as the subject case. Also, as mentioned earlier this evening, there is a tendency for a business like this to become entrenched in the neighborhood. We recognize that it is much cheaper to operate out of a residential house than it is to set up an office somewhere where it would be appropriate in Staff's opinion. Because of that it is difficult to make a profit leap to be able to afford that office in the future. Often times these businesses will grow because of that and because of name recognition. They will be stuck where they are in a residential

neighborhood and will become even more an incompatibility in the future. For those reasons, Staff recommends denial.

Mr. Dermody said they have heard from some neighbors. Nobody attended the neighborhood that was held a week or two ago but they have had a couple of phone calls from folks who are just generally opposed to having a business in a residential neighborhood with really no other details behind that. He said he would be glad to answer any questions they have.

**CHAIRMAN FLANDERS** asked Mr. Dermody what triggered this Use Permit? Was there a complaint or was there a business license filed? Mr. Dermody said he is not sure what triggered it originally but he knows prior to the Use Permit being filed, there was a request for a home-based business. They filled out an application (among their attachments) and when our inspector went out there they find out it wasn't in conformance with the application and the Use Permit had to come forward. He doesn't know what prompted the home-based business. Perhaps the applicants can answer that one.

**CHAIRMAN FLANDERS** asked if there were any questions of Staff on this.

**COMMISSIONER GULSVIG** stated that about two and a half or three years ago they had a similar situation with a landscaping company in downtown Chandler one street off Arizona Avenue. Basically, a similar situation where the owner of the business did not reside there but they were running a landscape business out of there and they were using it primarily for scheduling in which there were no facilities to keep materials kept there. He sees this as being similar to it. He doesn't see any difference than what they are doing here. The criteria of the owner residing in the business or the facility he thinks should be totally encouraged.

**COMMISSIONER RIVERS** asked Mr. Dermody if heard correctly that these folks do not live in this location? This is a rental home that is being used for business? Mr. Dermody answered that was correct.

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

**CARL SCHWENDLER, COMPASS FIRE & SECURITY, 1622 E. NIGHT HAWK WAY, PHOENIX**, stated that his brother lives at the home and he had one of the inspectors come out and meet his brother and he told them that he and his wife Debbie work there. It's his brother's house. They own the house and he just wanted to clear that one point up. They are here this evening to ask them to consider or reconsider their request for the Use Permit. In today's economy business is conducted in vastly different ways than five and ten years ago. Just about six years ago he and his wife started their own business. Statistics says that most small businesses fail within five years. They are proud to say they survived. U.S. Bureau of Labor Statistics estimates that more than 50%

of the residents in the U.S. have some sort of business run from a home. In January they bought the home in Chandler as an investment home for his brother to live in while he attended college and their two daughters to live in while they attend college in a few years. They set their operation inside the home and they operated in this manner with no issues or complaints from anyone for approximately six months. Until such time they received their original complaint letter his brother lives here while he attends school and works for him part time. He supports him right now. He will be part of the company when he finishes school. Please keep in mind their HOA never sent their CC&R's as they were supposed to when they bought the property. They never had an opportunity to understand that it wasn't allowed to have a business in a residential neighborhood. To his knowledge and according to the information that was provided to them, one neighbor has complained. That's all they know and that's why they submitted the Use Permit. According to our realtor, this residence sat vacant for over a year and a half before it was purchased by them. The landscape was dead and the house was falling apart. Many neighbors in our block have complimented on the appearance and the upkeep since he and his wife have purchased the home and they have made numerous changes to improve the appearance and value of the neighborhood. They have complied with every request from the City to provide information, letters, meetings, etc. They have complied with the zoning clearance home business application that was submitted with the partial exception of number 4b. That basically states that they are not having any employees visiting and coming to the residence. They do have one person who parks in front of the house. Compare this to a business like a home daycare, which generates traffic several times a day combined with the noise of children.

He and his wife will celebrate their fifth year anniversary on the 18<sup>th</sup> of October. They purchased their marriage license here in the City of Chandler five years ago and have dreamed of being able to afford and buy an investment home and run a small business to provide their family and to send their children to college. The American dream. They thought this dream was coming to fruition. They are a very small mom and pop company and have been so since. They started their first company. They have always known that if the business grew in size that they would have to move to a location not to jeopardize or burden the neighborhood. They would be perfectly content to receive a Use Permit with a cap on the size of their business is allowed to grow before being required to relocate. They would also be content to have a Use Permit granted with a review every 12 months to alleviate your concerns with the growth of their business. It seems that there would be a happy medium position to a case such as this or at the very least that these requests would be handled on a per issue basis. With each and every company that exists in this country there are always different circumstances and situations. They hope that they would be judged separately and individually and opposed to grouping all situations together and setting rules that don't apply to all who are requesting permits. He owns the home and he owns a business, his brother lives in the house, his wife is no longer able to work directly in the business and they have someone else to answer the phones. The number of bodies has changed. He wanted to also comment that they put down that there were 400 some square foot that was used as space to run the business. In actuality it is only 134 square feet. They have a table and they have front office. Due to

their small size they feel they meet the requirement as virtually indistinguishable. They could afford to rent a space. What the mortgage costs to be there they could afford a strip center mall or some other small place to rent. That never was their concern. He apologized for reading off his notes. He and his wife have never done this before.

**CHAIRMAN FLANDERS** said that was all right they often have large attorney firms that do the same thing. He asked what triggered this Use Permit application? Was it a complaint from a neighbor? Debbie Schwendler said it was a complaint and an inspector visited the property. Chairman Flanders said he was curious that they were only taking up 134 square feet in this establishment, why don't they run their business out of their home and rent this house? You get a larger return on a rental. Mrs. Schwendler said right now it is serving the purpose of his brother-in-law staying there why he goes to school. They are at their property almost every single day; at least Carl is. Chairman Flanders asked them why don't they run the business out of their regular home in Phoenix? Mrs. Schwendler said they did that once and they were working basically 24 hours a day. Mr. Schwendler basically it's leaving your kitchen and jumping into your office and it got kind of old. They started the business on a kitchen table.

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

**COMMISSIONER CASON** asked them if they bought the home in January where did they conduct their business for the four years prior to that? Mr. Schwendler said he had a space that they leased down on University in Tempe. Commissioner Cason said it looks like in the front of the house there is five parking spaces available when you count the driveway and the area out in front; two in the driveway and maybe you could squeeze three in the front of the house if you parked one in front of the drainage area as well. If you are there and then your brother is there, how many cars would you have? Mr. Schwendler said they got a call from a gentlemen the other day that said they were suppose to file for property taxes and so forth because they were leasing the property. They are not leasing the property. His brother is basically a charity case and they are paying for his rent. There is no rent, they are paying the mortgage. They are not leasing it to anyone. Mrs. Schwendler stated regarding the parking there are two in the driveway and one in the garage and sometimes one in front of the house.

**COMMISSIONER GULSVIG** asked if they are depreciating the property as a rental? Mr. Schwendler stated they are not renting it. Mrs. Schwendler said on their taxes this year this is their first year of doing it. They haven't talked to their tax person yet.

**VICE CHAIRMAN IRBY** stated in looking at their floor plan and if he is reading this right, they use the dining room as an office space? He asked the Schwendlers to explain to him which rooms they use as office space. Mr. Schwendler answered just the front area there. The drawing table is where they do drawings and plans and then they have a desk where it says home office. So they had figured the 18 x 18 and 9 x 12 was how they came up with 432 square feet. Vice Chairman Irby said he sees a big table in the living room also. Mr. Schwendler said that is the dining room table. Vice Chairman Irby stated

he thinks they use more square footage than they depict. If you take the living room and the dining room you are at 324 square feet. If you are only in the family room that's another 324 square feet. He thought they were taking up a lot more of the house for business use than his 130 square feet that you noted. He started his own business in 1983 and at the time lived in Tempe and he thought about working out of his house. The rules in Tempe were such if he had any clients coming to the house, it was not an appropriate use for a neighborhood. He now obviously lives in Chandler and the same rules apply that he had in Tempe so he doesn't believe any kind of business belongs in a residential neighborhood with the exception of a childcare facility and even that is sometimes questionable in terms of how many kids you end up taking on. He understands what he is trying to do for his brother and such but to him the neighborhoods need to be residential and stay in character. He personally agrees with Staff that he doesn't see any issues that make this an exception to the rule. He will be voting against this particular one.

**COMMISSIONER RIVERS** said he was trying to clear up something. When they moved to the house they now live in, do they live in this house before that? They have never lived in this house? So they bought this house purely to subsidize a relative? Mrs. Schwendler said it was partially an investment. Commissioner Rivers was wondering if they live in Phoenix why you chose Chandler as a place to buy their rental home and turn it into a business? What made you choose Chandler as opposed to Tempe or Mesa? Mrs. Schwendler said they looked at every home on the market in the price range and what home would have the best resale value.

**COMMISSIONER CASON** said they say they have their parts delivered to the sites. He is presuming that they bid on multi-family housing or something like that? Mr. Schwendler said they are strictly commercial. They dabble in security but they do 90% of fire alarm systems. They do the electronic parts not the sprinklers. Commissioner Cason said there is no opportunity or they don't have opportunity to have to go and activate the project at a later date where you would need additional parts to do that. In a commercial environment, if he understands him correctly, once you have installed all of your parts it all happens in a single phase or as the contractor's ready to have you come in and do it. Once you've completed, there is no reason for you to have to go back and you don't have to carry parts to service it. How do you service your customers? Mr. Schwendler said they service it through their vehicles. They have a couple vehicles they use. As far as parts, they are all here locally in town and it doesn't make any sense to store material like in the old days where they could right those things off as a business expense. You can't do that anymore. Most of the vendors that they purchase equipment through have it all stacked in their warehouse so it doesn't make sense to stock a bunch of equipment.

**CHAIRMAN FLANDERS** stated he had one speaker card and when he reads the name to please step forward and state their name and address for the record.

**TED METZNER, 652 E. IRONWOOD DRIVE, CHANDLER**, said his home is directly across the street from the property in question. He and his wife Pat were the first

builders of a home on Ironwood Drive in 1994 and moving in early 1995. They understood it was granted by their predecessors to be from farmland into a residential community and that is what it has developed into. They were pleased to be a part of that. As a matter of fact, down the street, their closest neighbors have been there; Dan and Jennifer, and on the other side of them is Stan and his wife and beyond that on the corner would be Marsella and Jim and across the street Jodie and then Scott, Mike and Marian and John and his father Mike, across the canal, the Chinese family and across the street directly to the north of them are Gladys and Ron. They are close with their neighbors. They are a member of a neighborhood and they interact with their neighbors. He has never seen these people before. They may have bought the property as an investment property he doesn't argue with that. They want to run their business out of there. He does disagree with a couple of things they had to say. He didn't come here to speak down against anyone. The fact of the matter is when you leave a garage door open and he comes out of his house and he can see in the garage he is not spying on them. It's used as a warehouse. They have equipment in there. Unless that equipment has been removed. He doesn't know that it really has. There were bins and everything else and as far as traffic on the road, upon occasion he has come home in the daytime and there have been five or six vehicles in front of their property. It is difficult for him to back out of his driveway. It doesn't mean he is a bad driver you just have to pay more attention. There are more vehicles than what they had admitted to. They like the home they live in. He doesn't plan on moving anytime soon. It is still a residential community and it can be argued that there are other people in the neighborhood who have their business out of their home and that is the key work. It is their home – it's where they reside with their families. If they give up their businesses, it is still going to be their home. If they sell it, it's going to be someone else's home. It's a residential community. He wears two hats. He is a business in the City of Chandler and he has been there for 15 years. He rents his offices down in the business complex on the northeast corner of Elliot and Arizona Avenue and he has been there for 15 years. He has several employees. Does he want to run his business out of his home? No, he doesn't. He doesn't think it is proper. He could be cute and say it's too close to the refrigerator. That's not the issue. There are plenty of restaurants. The idea is he runs his business and he keeps it separate from his home and neighbors and he thinks that is proper.

**CHAIRMAN FLANDERS** asked if there was anyone else in the audience that would care to speak in regards to this item tonight. He said to the applicant that they could step forward again and respond to comments from the speaker if they like.

**MR. SCHWENDLER** said it is kind of hard to say that Mr. Metzner has never seen him in the nine months they have been there. He has actually made friends and talked with people in the neighborhood and they have a great rapport. He has actually been the only gentleman that repeatedly turns the other way and never wants to say a word to us. Obviously, they were wondering if that was who it was and now they know. They have known remorse on any of that either. Regarding the stuff in the garage her brother-in-law has to have his equipment for the audio and visual school plus the stuff he brought from New York with him. It's in the garage.

**COMMISSIONER RIVERS** asked if this business has been in operation for almost five years? Mr. Schwendler said that was correct. Commissioner Rivers asked if it has only been in this location for nine months? Mr. Schwendler said yes. Commissioner Rivers also asked where it was before that? Mr. Schwendler said it was on University in Tempe. Commissioner Rivers asked it was not in your home? Mr. Schwendler responded that when they first started it was. Commissioner Rivers asked what was the reason they decided not to stay in the business location and go into someone's neighborhood and go into a house rather than continue in a business location? Mrs. Schwendler said the people they were subletting from moved to a new location to start their own business. They also wanted to purchase an investment property and right about that time Carl's brother said that he was going to be coming to Arizona to go to school and could they help him out. He's going to school to learn and be part of the business. Commissioner Rivers said he is just trying to rationalize the train of thought that would take a business out of a business environment and put it into a home. Mr. Schwendler said they don't have any customers and don't have that kind of an operation. They are either going to a general contractors office or somewhere. Commissioner Rivers said plus it costs less and they don't have to pay to lease or rent a business location.

**CHAIRMAN FLANDERS** asked if there were any other comments or questions to the applicant. He went ahead and closed the floor for discussion and a motion on this item.

**COMMISSIONER GULSVIG** stated that he really does appreciate an entrepreneur and starting a business and going for it because it is an awful lot of work. We have standards within the city that says if you live in a house and you own a house you can run a business out of a house based on criteria. For an entrepreneur to come into our city and not live in our city and run a business out of a residential area is disrespectful to the neighbors. That is one point. The other point is it's going against the rules. On that note, he will be voting to support the Staff's recommendation.

**COMMISSIONER RIVERS** said he agrees with Commissioner Gulsvig and with the Staff and sees no reason to make an exception to the rules for this particular business and he too will be voting to support the Staff recommendation.

**CHAIRMAN FLANDERS** entertained a motion.

**VICE CHAIRMAN IRBY** made a motion to deny UP07-0055 COMPASS FIRE & SECURITY. He stated his reason for denial is that it's not an owner occupied business. It does have an impact on the residential use and he thinks it probably impacts it based on additional cars and it violates the CC&R's on top of that. Those are the main concerns. He just can't support this particular case.

**COMMISSIONER GULSVIG** seconded the motion.

**CHAIRMAN FLANDERS** said in regards to this item he agrees with what is being said by the Vice Chairman as far as it being in a residential area. It's a commercial business

and should be conducted out of an area that has commercial office. He thinks it's an encroachment into the residential neighborhood.

The item was denied 6-0.

**CHAIRMAN FLANDERS** asked Staff when is this going to City Council. Mr. Dermody said it is scheduled for the November 8 City Council meeting. Chairman Flanders said to the applicant that will be the next meeting they get to plead their case to. He also said that Planning Commission is a recommending body to the City Council. They will ultimately make the decision.

6. DIRECTOR'S REPORT

There was nothing to report.

7. CHAIRMAN'S ANNOUNCEMENTS

The next regular meeting is November 7, 2007 at 5:30 p.m. in the Council Chambers, 22 S. Delaware Street, Chandler, Arizona

8. ADJOURNMENT

The meeting was adjourned at 7:06 p.m.

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Michael Flanders, Chairman

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Douglas A. Ballard, Secretary