

**INFO #1**  
**April 24, 2008**

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, April 2, 2008 held in the City Council Chambers, 22 S. Delaware Street.

1. Chairman Flanders called the meeting to order at 5:38 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 Michael Cason  
Commissioner Leigh Rivers  
Commissioner Kristian Kelley

Also present:

Ms. Jodie Novak, Senior Planner  
Mr. Bill Dermody, Senior Planner  
Mr. Erik Swanson, City Planner  
Mr. Glenn Brockman, Assistant City Attorney  
Ms. Joyce Radatz, Clerk

4. APPROVAL OF MINUTES  
**MOVED BY VICE CHAIRMAN IRBY**, seconded by **COMMISSIONER RIVERS** to approve the minutes of the March 19, 2008 Planning Commission Hearing. Minutes were approved 6-0 (Commissioner Creedon abstained as she was not present at the meeting.)
5. ACTION AGENDA ITEMS  
**CHAIRMAN FLANDERS** informed the audience that prior to the meeting Commission and Staff met in a Study Session to discuss each of the items on the 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: item A, C, and J.

**MS. JODIE NOVAK, SENIOR PLANNER**, stated the following items are for the consent agenda approval along with any additional stipulations.

B. DVR07-0054/PDP07-0034/PPT07-0046/PPT07-0047  
CHANDLER CENTER

**APPROVED TO CONTINUE TO THE APRIL 16, 2008 PLANNING COMMISSION HEARING.**

Request amendment to the Section 16 Area Plan, re-designating an approximate 30-acre site located south and west of the southwest corner of Arizona Avenue and Queen Creek Road, from Commercial to Multi-Family Residential.

In addition, request rezoning from Planned Area Development (PAD) Commercial to Planned Area Development (PAD) Amended for Multi-Family Residential uses on approximately 30-acres of a 50-acre site, along with Preliminary Development Plan (PDP) and Preliminary Plat (PPT) approval for the 30-acre residential component and 20-acre commercial component of a 50-acre site located at the southwest corner of Arizona Avenue and Queen Creek Road. **(REQUEST CONTINUANCE TO THE APRIL 16, 2008 PLANNING COMMISSION HEARING.)**

D. DVR08-0006 AAMCO PLAZA  
**APPROVED.**

Request rezoning from Planned Industrial District (I-1) to Planned Area Development (PAD) zoning with Preliminary Development Plan (PDP) approval for new monument signage. The approximately 3-acre site consists of two parcels wrapping around the northeast corner of Chandler Boulevard and 56<sup>th</sup> Street.

1. Development shall be in substantial conformance with existing zoning approvals except as modified by the application materials of this request (narrative, site plan, and sign illustrations) and associated conditions of approval.
2. Sign packages, including free-standing signs as well as wall-mounted signs, shall be designed in coordination with landscape plans, planting materials, storm water retention requirements, and utility pedestals, so as not to create problems with sign visibility or prompt the removal of required landscape materials.
3. The monument sign's sign panels shall have an integrated or decorative cover panel until a tenant name is added to the sign.

E. DVR08-0007 SEC OF COOPER AND CHANDLER HEIGHTS ROADS  
**APPROVED.**

Request the establishment of initial City zoning of Agricultural (AG-1) on an approximate 10-acre site located at the southeast corner of Cooper and Chandler Heights Roads.

F. DVR08-0010 NORTHEAST CORNER OF ARIZONA AVENUE & RIGGS ROAD

**APPROVED.**

Request the establishment of initial City zoning of General Industrial District (I-2) on an approximate 35-acre site located at the northeast corner of Arizona Avenue and Riggs Road.

G. DVR08-0011 SOUTHWEST CORNER OF WILLIS ROAD AND THE UNION PACIFIC RAILROAD

**APPROVED.**

Request the establishment of initial City zoning of Agricultural District (AG-1) on an approximate 11-acre site located at the southwest corner of Willis Road and the Union Pacific Railroad.

H. PDP07-0031 MONTAGE VILLAS

**APPROVED.**

Request Preliminary Development Plan approval for a 60-unit multi-family residential development on approximately 5.3 acres. The subject site is located at the northwest corner of Pecos Road and Canal Drive, approximately ½ mile east of Pecos and McQueen Roads.

1. Right-of-way dedications to achieve full half-widths, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.
2. Completion of the construction 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.
3. The developer shall be required to install landscaping in the arterial street median(s) adjoining this project. In the event that the landscaping already exists within such median(s), the developer shall be required to upgrade such landscaping to meet current City standards.
4. Development shall be in substantial conformance with Exhibit F, Development Booklet, entitled "MONTAGE VILLAS", kept on file in the City of Chandler Planning Services Division, in File No. PDP07-0031, except as modified by condition herein.
5. The landscaping shall be maintained at a level consistent with or better than at the time of planting.
6. The site shall be maintained in a clean and orderly manner.
7. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or property owners' association.
8. The parking space canopies shall incorporate building materials, forms, and colors to match the development.

9. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Public Works for arterial street median landscaping.
- 10. The applicant shall work with Staff to provide ample trash receptacles.**
- 11. The applicant shall work with Staff to relocate trash receptacles off of the property boundaries adjacent to the single-family residential neighborhoods.**
- 12. The applicant shall work with Staff to finalize a modified landscape plan on the west side of the site.**
- 13. The applicant shall work with Staff to modify window locations on west building elevations for buildings 6, 8 and 9 to address privacy concerns with adjacent homes.**
- 14. The applicant shall work with Staff to review and develop a residential exterior building lighting plan.**
- 15. The applicant shall work with area property owners at the time of construction to address pest control.**
- 16. The applicant shall install and maintain landscaping in the canal drive landscape island.**

I. UP08-0001 CROOKS CHIROPRACTIC

**APPROVED.**

Request Use Permit approval to operate a Chiropractic office in a single-family home within an Agricultural (AG-1) zoned district. The subject site is located at 100 S. Cooper Road, south of the southwest corner of Cooper Road and Chandler Boulevard.

1. Landscaping shall be in compliance with current Commercial Design Standards.
2. The landscaping shall be maintained at a level consistent with or better than at the time of planting.
3. The site shall be maintained in a clean and orderly manner.
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. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
6. The driveway and parking surfaces shall be asphalt or concrete.
7. The applicant shall work with Staff to provide a parking screen wall.
- 8. The applicant shall work with Staff to provide enhancements along the Paseo Canal to meet the intent of the Paseo Trail plan.**
- 9. The applicant shall work with Staff to insure proper ADA requirements for the building and site are applied.**

K. UP08-0011 BUFFALO WINGS & RINGS

**APPROVED.**

Request Use Permit approval to allow liquor sales as permitted under a Series 12 Restaurant License for the sale of all spirituous liquor for on-premise consumption only within a new restaurant. The property is located at 1760 West Chandler Boulevard, the northwest corner of Pennington Drive and Chandler Boulevard.

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 and outdoor dining area shall be maintained in a clean and orderly manner.
6. **Shrubs shall be installed and maintained in the two raised landscape planters within the common pedestrian seating area and install automatic watering system.**

L. UP08-0013 CVS PHARMACY (FULTON RANCH)

**APPROVED.**

Request Use Permit approval to allow liquor sales as permitted 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 northwest corner of Arizona Avenue and Chandler Heights Road in the Fulton Ranch Marketplace center.

1. Expansion, modification, or relocation beyond the approved exhibits (Site Plan, Floor Plan, and Narrative) shall void the Use Permit and require new Use Permit re-application and approval.
2. Any substantial change in the floor plan to include such items as, but not limited to, a bar serving area or the addition of entertainment related uses shall require new Use Permit reapplication and approval.
3. The Use Permit is granted for a Series 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.

M. UP08-0014 CVS PHARMACY (PORTICO PLACE)

**APPROVED TO WITHDRAW FOR THE PURPOSE OF RE-ADVERTISING.**

Request Use Permit approval to allow liquor sales as permitted 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 Dobson Road and Chandler Boulevard. **(REQUEST WITHDRAWAL FOR THE PURPOSE OF RE-ADVERTISING.)**

N. PPT07-0039 GARAGE TOWN AT SOUTHSORE TOWN CENTER PHASE II

**APPROVED.**

Request Preliminary Plat approval for a condo storage unit development consisting of 117 units located east of the southeast corner of Arizona Avenue and Ocotillo Road.

**CHAIRMAN FLANDERS** asked if anybody in the audience wanted to pull any of the consent items for a full presentation and he asked if there were any comments or questions from Commission.

**CHAIRMAN FLANDERS** said he had a speaker card on item F and the person is not in favor of it. The speaker Gigi Stacy said she did not want to pull the item but would make a quick statement.

**GIGI STACY, 672 E. TORREY PINES PLACE, CHANDLER,** stated that the residents in Lagos Vistoso and across from Riggs Road from them (Paseo Crossings) are in favor of having some sort of retail outlet going in there as long as it is not Walmart and also if they have enough traffic control. Tonight coming home from grocery shopping and making that left turn off of Arizona Avenue onto Riggs and where there is supposed to be entrance to this proposed retail center, it's going to be a nightmare. They are going to see a lot of accidents that are going to be happening along that area. That was her main concern.

**CHAIRMAN FLANDERS** thanked her and asked the audience if there was anything else that needed to be pulled. There were no others.

**VICE CHAIRMAN IRBY** stated that he would be abstaining on item E since that is a current client of his.

**CHAIRMAN FLANDERS** said he would also be abstaining on item F as he is employed by the architect of record on that project. He entertained a motion for the Consent Agenda.

**MOVED BY COMMISSIONER CASON,** seconded by **VICE CHAIRMAN IRBY** to approve the Consent Agenda with any additional stipulations as read in by Staff. The Consent Agenda passed unanimously 7-0.

**CHAIRMAN FLANDERS** stated the first action item is item A. He will be abstaining on this item as he has a 'conflict of interest'. The grocery store on this particular site is a current client so he turned it over to the Vice Chairman.

**ACTION:**

A. DVR07-0042 NORTON'S CROSSING

Request rezoning from Planned Area Development (PAD) for commercial uses to PAD amended for an office, retail and multi-family development, with Preliminary Development Plan (PDP) approval for site layout and building architecture on approximately 23.5 acres. The subject site is located at the northwest corner of Chandler Boulevard and Gilbert Road.

1. Right-of-way dedications to achieve full half-widths, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.
2. 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.
3. Future median openings shall be located and designed in compliance with City adopted design standards (Technical Design Manual # 4).
4. Completion of the construction 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.
5. The developer shall be required to install landscaping in the arterial street median(s) adjoining this project. In the event that the landscaping already exists within such median(s), the developer shall be required to upgrade such landscaping to meet current City standards.
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. Development shall be in substantial conformance with Exhibit J, Development Booklet, entitled "NORTON'S CROSSING", kept on file in the City of Chandler Planning Services Division, in File No. DVR07-0042, except as modified by condition herein.
8. The monument sign's sign panels shall have an integrated or decorative cover panel until a tenant name is added to the sign.
9. Landscaping shall be in compliance with current Commercial Design Standards.
10. Raceway signage shall be prohibited within the development.
11. The landscaping shall be maintained at a level consistent with or better than at the time of planting.
12. The site shall be maintained in a clean and orderly manner.
13. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or property owners' association.
14. The parking space canopies shall incorporate building materials, forms, and colors to match the development.

15. The freestanding pads shall carry an architectural level of detail similar to front facades of the main buildings.
16. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Public Works for arterial street median landscaping.
- 17. The applicant shall work with Staff to provide additional landscaping to enhance shading for pedestrian areas within the retail component.**
- 18. The applicant shall work with Staff to relocate the refuse enclosures located along the northern property boundary to be more internalized.**
- 19. The canvas shade structures shall be maintained in a manner similar to that of the time of installation.**
- 20. The applicant shall work with Staff to better architecturally integrate the stairwells found on the residential buildings.**
- 21. The applicant shall work with Staff to relocate the western most carriage unit elsewhere on the site.**
- 22. All retail shall be developed as part of Phase I excluding the grocery pad and the bank pad.**

**ERIK SWANSON, CITY PLANNER**, stated that this request is for a rezone from PAD commercial type uses to PAD amended to allow for multi-family and commercial uses. The subject site is located at the northwest corner of Gilbert Road and Chandler Boulevard. The subject site is approximately 23 ½ acres. The commercial development is approximately 46,670 square feet, which is approximately 7.67 acres. The residential has approximately 286 residential units proposed on approximately 18.85 acres. This request has been continued a number of times to allow the applicant and Staff to work through design alternatives and concerns. The subject site was originally zoned in 1993 as part of a large 230 acre Master Plan. The subject site was zoned allowing for a 16-acre commercial site and approximately 10-acre multi-family site. Later in 1995 a zoning was heard again – a rezoning which ultimately eliminated all of the multi-family making the entire site commercial, which is where we are at right now. The commercial development is proposing a number of buildings. There is a grocery anchor located at the intersection corner with an attached shop space. There is also a drive through pad north of that and also a bank use. Along Chandler Boulevard there are three shop spaces. Overall the residential component offers a variety of design alternatives. There are three multi-family buildings that are developed in a C-shape that provides for open areas, open courtyards and pool areas within the arms of the C or the U, if you will. They are also providing a carriage unit type residential product, which will have garages below with residents above.

Overall, Staff finds the project very attractive. The developer is taking a lot of consideration into the design and interaction between the multi-family development and the commercial development. They really looked at enhancing that pedestrian experience through enhanced landscaping along the pedestrian corridors, pedestrian access

throughout the site and enhanced pedestrian areas at the intersection, various courtyards and water features throughout. Likewise with the residential component. They have created a very attractive product that does also provide a lot of residential amenities; a clubhouse that provides a variety of amenities, pool areas, play areas for children and substantial access throughout the site. They find the architecture to be very good architecture using a variety of materials and colors. They are requesting signage – two monument signs and a variety of low wall signs to show where the entrance to the residential portion is and also the commercial. Overall, they received a lot of neighborhood opposition. They have had a couple of neighborhood meetings. The first neighborhood there were approximately 13 residents that attended. As a result of that, he received a number of e-mails and phone calls in the range of 24 residents that have contacted him with concerns. A lot of the concerns dealt with the multi-family product itself and the use on the site. There were concerns with the proximity of the multi-family to the property boundaries. There were concerns with lighting, concerns with crime, concerns with the parking stalls in close proximity to the north property line. The developer has taken a number of steps and with that a number of site plans. Initially, there was a site plan that had the carriage units along the north property line and along the west. Through a lot of work with the residents and Staff, they have pulled those carriage units and disbursed them throughout the site. They located them between the major multi-family portion of it and the commercial portion of it to create a stronger interaction there. The applicant did attend a HOA meeting recently and made a presentation there as well. This project has triggered a legal protest. As part of that legal protest process, if property owners making up 20% of property on any boundary is an objection to the rezoning. It then triggers a legal protest. They have approximately 50% of the property owners on the north side opposed to it. Legal protest does not affect Commission votes but it will require a  $\frac{3}{4}$  vote of the City Council. Overall, they find the land use attractive and meets their General Plan and subsequent Area Plans. They initially had concerns with the ratio but in speaking with the developer and various departments throughout the city they have realized that it's not necessarily a corner that really could substantially handle commercial development. It really depends on how it's designed. They feel this layout and ratio is a successful ratio and they feel that the multi-family will be able to support some of the commercial in the area as well as this. They did have concerns with commercial around the area and it is unfortunately kind of dying and losing users. They feel that having this will help to stimulate that. Mr. Swanson said that overall, Staff does recommend approval and he would be happy to answer any questions.

**VICE CHAIRMAN IRBY** said he understood that this is not a phased project. This is intended to be built out as one development. Mr. Swanson said ultimately they would like to do it in one phase but what will happen is if they can't do it in the one phase, they want to do the residential first and then the commercial second. Their intention is to get it all going at one time.

**VICE CHAIRMAN IRBY** asked if there were any questions for Staff.

**COMMISSIONER GULSVIG** said there are approximately 34 homes that border this development. Is that correct? He made that count real quick. His concern is how many of those are two-story homes? Mr. Swanson said he is not sure. He thinks they are one-story – a majority of them.

**COMMISSIONER CASON** said to Mr. Swanson that he had a bunch of questions he submitted and a couple of them he would like to talk to him about before they bring up the applicant. Was he able to talk to the applicant about moving around the trees or the planting so those areas actually receive shade since the trees are north of those areas? Was the applicant amenable to that? Mr. Swanson said he did contact the applicant via e-mail and he didn't have any open dialogue. He did send them some of the concerns that the Commission expressed. He hasn't heard any feedback from them regarding that. He would imagine that it is something that they can work with the applicant to accommodate. Again, once the applicant does give their presentation that will provide them an opportunity to discuss that as well. **COMMISSIONER CASON** said since they haven't heard anything back he will wait for the applicant.

**COMMISSIONER CREEDON** stated to Mr. Swanson that he alluded to the commercial development and this not necessarily being a prime location. She knows Chris Mackay is here and maybe she can speak a little bit to the economic development and their position on this.

**CHRIS MACKAY, SR. ECONOMIC DEVELOPMENT SPECIALIST** asked Commission if they had specific questions or would they like her to go through their thought processes as to why they looked at that corner the way they did? **COMMISSIONER CREEDON** said she would very much appreciate her thought process. Ms. Mackay said that what economic development did is they looked at this corner. This is in a predominately built out area. It's kind of a skipped over retail area. The whole pad then years ago showed that it would be a traditionally anchored grocer type center - perhaps a 135 to 150,000 square feet of space. As development has pushed farther and farther to the south, the need for that grocer in the area has disappeared. There are approximately seven grocery stores within a 3-mile ring of this particular site and 2 of them are dark, they have failed. There is not a big enough pie any longer to support that number of grocers in the area and traditionally a grocery anchored shopping store in that particular area. They looked at it from a broader picture. If it wasn't a grocery store what could it be? They really went through a great exercise in Planning and Development in really talking all of this through. So if it wasn't a traditional anchored grocery store what could it be? It would be 'destination retail'. In that area you don't the centers to fail. There is enough retail in the area to support the residential that exists today. All they would be doing is driving the pie smaller. Unfortunately, it doesn't have a prime freeway frontage site and Crossroads is very close – about 2 miles to the south with 1.6 million square feet of destination retail. This site probably wouldn't be able to attract even those retailers like the Ross and the Staples and that type of thing on a broad scale – enough to cover the 22 acres of this entire site. Further, they looked at the sites not only in Chandler but at the Gilbert side also. They have another very large retail site

that will be coming on that is controlled by nationwide down close to that freeway frontage corridor. They will be driving the need for more of the destination type retail. They really didn't feel that it was going to give them that opportunity. The last thing they looked at was traffic patterns. Which way do people come and go. It was their general thought in talking to their traffic people and talking through Planning and Development through their own Staff, if you are north of Ray you tend to go towards 60 to get into the center of town. If you are south of Ray you may go south to the 202 depending on your destination. You kind of avoid that whole Chandler Boulevard although it's a terrific traffic area. There are tremendous amounts of traffic on both Gilbert Road and Chandler Boulevard. They are two of their highest traveled areas. They still didn't feel that the area when they looked at everything that's in the area and everything that is coming that they have approved recently would be able to support anymore retail that would compliment the area.

**COMMISSIONER CREEDON** said she is a little bit familiar with that project on the Gilbert side of things so she wanted to ask a quick question about that. If she is not mistaken that is a mixed-use type product with office and some residential component. Is that correct? Ms. Mackay answered that was correct.

**COMMISSIONER CASON** asked if they were able to examine the viability of office space for that property? Ms. Mackay replied that they did. That was their second piece of the puzzle that they looked at was from an office standpoint. Is it a viable even garden office site as opposed to a traditional class A or class B site? They don't feel it is a class A or B site for those reasons they stated – the location of the freeway and the way that traffic patterns were disbursed from the area. They looked at it to see if it would be a good medical office site or a quasi-garden State Farm Insurance or maybe some office condos in the area. Because of it's close proximity to the Airpark Area and that access along the 202, there are 28 million square feet in non-residential expected in that 9 square miles of the Airpark Area. They feel the area would be over saturated with office and they would be setting some of it up for failure.

**COMMISSIONER KELLEY** asked what the addition of 286 units in terms of a population generation actually does to the viability of retail at this corner? Ms. Mackay said that was an excellent question. They looked at that also and they feel by adding 286 more residential units in a predominately built out area, certainly someday on the Gilbert side there is a County island that could redevelop at residential. She didn't think there was anything in the plans in the works for that to be done. It's single-family residential. People have lived there for a long period of time. Adding 286 additional rental units will again shore up the viability of the retail that's already in the area. It will assist the Fry's Marketplace that is on the Gilbert side. It will assist the retail that pushes to the west at Chandler and McQueen. It will continue to shore up more and more retail by supporting that residential.

**COMMISSIONER RIVERS** said to Ms. Mackay that two weeks ago Hank Pluster stood right there and told them that they must be very cognizant of using commercial

corners for residential as build out approaches. They have so few of these pieces of property left they must not give into temptation he said to put residential on what could be viable commercial property. The other thing he said he wanted to ask was when she was talking about traffic patterns when Williams Gateway is a full-fledged airport, traffic will go to Gateway right down Chandler Boulevard past this corner. He thinks some weight ought to be given to that idea. Also, if you put this number of new residents in this place are there schools for their children? How will it affect the infrastructure? These are questions he has.

**MS. MACKAY** said she loves Hank Pluster. He ensures her job security by making sure that we keep lots of office and industrial corridors left. They did discuss that in detail with Planning because they couldn't agree more. It is critical especially now in our build out that they really do pay special attention to those corners. They really do have to look at what is the viability and they don't plan the city for a week from Tuesday, they plan this city for 50 years from now, a 100 years from now to make sure this is still a quality, sustainable community. They looked at that corner to see if that had any viability. They had a number of heated discussions about this particular situation and they really weighed back and forth. She and James Smith, who handles retail, looked at it from both angles and really looked at the whole picture. They felt it was one of those corners that perhaps would not be anything viable in the near future, even in the long-term future perhaps setting those around it up for failure. As for the question where Williams Gateway is concerned, the Williams Gateway traffic has been going to that area since it was the Air Force Base. That is a common way for it to go. What they understand from working with Mesa is they are working with ADOT now to ensure some type of freeway access in the future to Williams Gateway. It's a huge job center. It's planned to be the second biggest job center in all of metro Phoenix behind the central corridor. They are looking at that to provide some type of freeway accessibility. It probably won't be in the next 10 years. If you talk to ADOT it's probably a 20-year build out as they create that farther loop as it goes out. On the short term Chandler Boulevard would be a way they would travel but she thinks the more logical way they may travel it to get on the 202 and then exit off as it circles back to the 60. She agrees with him that those are traffic patterns that she is not an expert on and she wouldn't be able to speak to that what it could potentially be in the next 10 or 20 years. She said there will be more traffic on that corridor as that area develops. It will continue even if they don't take Williams Gateway out of the mix as they go farther and farther into build out into Florence, Queen Creek and Apache Junction. She said when you know that Westcor is buying a mall site in Florence that it is going to get there eventually. She thinks they will see all over Chandler traffic patterns continue to increase.

**COMMISSIONER RIVERS** said as far as the questions about infrastructure with this many new housing units in one place. Will the schools handle the additional children? Also, since he did drive out to the site does she not feel that in the same 20 year ahead time frame that perhaps that large mobile home community to the south and those interesting businesses on the south side of the street might also be redeveloped into some

vary large either residential or some other kind of project within that 20 year time frame? He realized that it's speculation.

**MS. MACKAY** replied that it is speculation but it is a very real speculation. He is right that will happen some day as we push out and land becomes even more and more scarce and residential land as they begin to redevelop and change as Tempe is now. They did take that into account. She and James applied a general number of units per acre and gave a rough idea as to what they thought that the number of dwelling units that could come into the area would be. They still couldn't get to it. It's not a super large parcel and she doesn't remember how large it is. It's not gigantic. It couldn't create another Fulton Ranch or Markwood Farms or something like that. It is a significant parcel. They did look at all of the retail in the area with what's coming in and the project they just recently approved at Chandler and McQueen and the stuff that is working at Chandler and Cooper with the Springs Retail project. Still with its close proximity to all of that signature retail at Crossroads, from a grocer standpoint, they couldn't get to that point where they could get their arms around the fact that they could anchor 23 acres of retail at that location. They really looked at a build out. In answer to the infrastructure question where the schools are concerned, with those 286 residents and typically there are 2.1 people per household in their multi-family in Chandler by census standards. Typically, not a significant number of children tend to live in the multi-family not as they do in single-family residential. That's not something that they did take into account. She will apologize for that. If you are looking at north Chandler of which that area is a part, it is a built out area. It's not a fast growing area with families, although people sell houses and new families move in. It will always be changing over. It is becoming more of an area like they see in the Kyrene school district where it's reached its build out model and they are in more of a declining school district. She doesn't have any facts to support that just the general feel from the area. North Chandler is a predominantly built out area. Her daughter went to school in that area and she is kind of familiar with that over a seven-year period with what they were facing there.

**COMMISSIONER RIVERS** stated that with census figures being what they are they also need to temper that with the idea that there are more single parent families and if you to the 2.1 model for apartments or condominiums and if you figure one of those is the parent, and the rest of them are kids and the area is built out, there are not going to be anymore schools. What you are hoping for is a reduction in the school population that will make up for this increase. What he is thinking now is if this property may not support a full grocery store or office complex, the residents that are there and the residents that are going to go in Gilbert across the street, they may have need for medical offices at some point soon. If you cut the residential part of this project down from 2/3 to 1/3 and put in some medical and dental offices, this may be another way to think of it too. He thanked her for all of her answers.

**ERIK SWANSON** stated to address the school concerns, whenever they have residential development they request that the developer do contact the school district to ensure space and room for the children. The applicant has done that.

**COMMISSIONER GULSVIG** thanked Commissioner Creedon for asking the questions of Chris Mackay and appreciated Ms. Mackay's full response for providing a good overview of that corner with respect to the rest of development around Chandler. It is important and he appreciated her input.

**COMMISSIONER CREEDON** stated that Commissioner Rivers made a very good point in that they do need to be very strong on trying to protect our commercial and industrial land and that's something that she doesn't take lightly. That is why she asked Ms. Mackay. She puts a great deal of weight the analysis that the economic development staff does. That is why she encouraged her to come up tonight and she thinks it's something that we all should carefully consider.

**VICE CHAIRMAN IRBY** thanked Ms. Mackay and called up the applicant to make his presentation.

**STEVEN EARL OF EARL, CURLEY & LAGARDE, 3101 N. CENTRAL AVENUE, PHOENIX**, stated he is here on behalf of Starpointe who it's been their good fortune as a firm to represent for the last ten years and would like to introduce to them. He also wants to point out that this case was under the shepherding of his partner, Mike Curley. He could not be in two place at once tonight as there was another hearing.

First of all because this is a PAD and in Chandler they are very site specific with the PAD's and because they are asking for architectural and conceptual site plan as well, they have a very specific case in front of them. That is important because they aren't just talking generally about whether this is a good mix, they are talking very specifically about this proposed PAD. Because of that I think it's important for you to know whom you are dealing with. Starpointe is the developer of the Biaggio project, which you all know is north and east of the northeast corner of Rural and Chandler Boulevard. He lived very close to that location. That's one that probably had a dozen projects come forward and back and forth with Staff and no one could actually develop that. Starpointe went in and put the condominium units that are there today. They back right up to residential and it received the City's excellence in design award. In fact, Starpointe has built 3000 condominium units within the last 10 years. They are the number one condominium developer in the state of Arizona. The only build class A condominium projects. They have never built anything less than the top of the market. Because they are bringing that experience to this and because this will be a mixed-use project it's of some value to look at a few of those projects very quickly. They will get to the specifics of this because that kind of lays a predicate for what they are going to bring to this parcel. He said the first slide they see is a project in north Scottsdale called Artesia north and east of the northeast corner of Indian Bend and Scottsdale Roads on the old resort side. It's just north of that high end commercial on the corner and they are going to continue with that same type of high end on the corner and there is also going to be condominium units in back of that. These condominium units that you see in the background of the slide are going to be \$400,000 and one million dollars in value along with the 22,000

square feel of retail. This is kind of the top end of the market both from a condominium standpoint as well as retail so they know how to build the two projects together. He knows that Chris was talking about if we can make retail work here. That's obviously a concern we will talk about in a minute. This 43,000 square feet of retail the way we have designed it will work very well. This next project is in the Paradise Valley area of Phoenix next to Stone Creek Golf Club. It's called Endera. It's 312 units. Their project is 286 units. This is a little bit larger. These units are going in the neighborhood of \$250,000 to \$400,000 per unit. He showed the renderings of the project before it got started. He showed the interior of those projects that he told them about in north Scottsdale. The importance of this is they are adding the same level of quality even though these are rental units, are being built for potential conversion to condominium units. You have to start out at that condominium level. You can't start out at a lower level. They would be convertible. The only reason they are not starting with condominium units is that we all know what's happened to the condominium market in the last two years. It's softened considerably. Since they are the number one builder of condominiums in the state right now, they wanted to make sure they have the ability to convert to condominiums when the rental market changes and we get back to a more stable single-family/condominium market. This shows the granite countertops, the fireplaces and the high quality furnishings with cathedral ceilings.

He showed the project at Stone Creek Golf Club called Endera. He showed the amenity area/pool area similar to the kind of amenity area that they brought into this project. This shows the amenity package that is associated with the Endera project in Phoenix. They have a real high-end clubhouse and fitness facilities. He then showed the Indigo project in the City of Phoenix on the west side of I-10 between Chandler Boulevard and Frye Road. They have probably passed it several times. These are in the \$300,000 range as condominiums. There are 108 units and range in size similar to theirs of about 900 to 1400 square feet depending on whether it's a one or two bedroom unit. The last project is in Chandler called the Biaggio project because it is up against single-family homes and it is a two-story product. A lot of the same issues they had to deal with there making sure they were properly buffering the multi-family units from the single-family units that exist there today. A lot of these are similar in character. There are 116 units there and are 900 up to 1400 square feet in the \$200,000 to \$300,000 range. He hopes through this effort with what they have tried to show them is that they only build class A projects. They are bringing that same concept here.

The 23 acres that is here as they heard Chris mention was zoned C-2 with the residential surrounding it. It has been there quite a while. They had Elliot Pollack who they know is in the field of this kind of study of economic development and the ability of financial feasibility for retail projects. In the two square mile area around this site he was able to determine there was 3-1/2 square feet of retail development. There is about a demand for 2-1/2 million. They have a lot of square footage against the population base and this has been pointed out, there is an opportunity for increase in population base but not a lot. It is essentially a built out area. There are properties to the south and some to the east that can be developed. When you see that disparity, it was clear to them with the intent here

to have a very strong project that will endure. If they tried to fill this with commercial, it will be a mistake. Ultimately, two or three things can happen when you have a site of this magnitude. Either one, it will never get developed and sit there vacant for all these years, or two it will start with something but many of the major tenants will become vacant. That's even worse than having it entirely not even developed. They had to look at commercial office as well. As you heard Chris Mackay say, they have 28 million square feet of business/office commercial development in the Chandler Air Park. As Elliot Pollack looked at that it seemed unlikely that we could do an office project here. There simply wasn't demand. Then they went to the mixed-use project like they had up in north Scottsdale where they take the frontage on Gilbert and on Chandler Boulevard and they put high-end specialty retail. Behind that put the 286 high quality rental units that are convertible into condominiums.

They went out to the neighborhood to try to interface with the general neighborhood. They go door to door to present this because any time you use the word apartment it is almost a four-letter word in this business. There are a lot of assumptions that go along with apartments even though we all have lived in apartments at one point in our life. We have the impression that all apartments have a lot of problems. There are high crime rates and everything associated with that. They wanted to show the folks what they were proposing and they have been pretty consistent throughout the development of all these projects. They only do top end work. They are not just saying this here tonight they are stipulating that to the plan and architectural drawings. Starpointe has built every project it's been involved in. As they did that work, they discovered there were some problems with the initial design. Coming off of Chandler Boulevard they felt that in order to make the project work as a true mixed-use project, they need to have the entrance to the commercial also be the entrance to the residential units. Off of Chandler Boulevard they have a great promenade entrance that goes right through the middle of the commercial area so they can have a kind of patio style outdoor seating on both sides of that and a strong arcade. There was a question about shade in this project. They have overhangs over all of the frontage of the commercial coming around on to this promenade as you come through into the focal, which is the fountain. Then you go off on either side into the residential units into the gated community. He showed the architecture on a slide. He said they appreciated Staff's support of not only the project but of the architecture. He also showed a blow up of the pedestrian features of this plan and how you come through this around the fountain area into the gated area of the residential so that there are strong pedestrian pathways from the major streets, both Chandler Boulevard and Gilbert Road. He showed architectural renderings that are part of the project to show the various building heights and the materials and tower elements for architectural interest. Dean Munkachy, who designed all this is here tonight to answer specific questions if he doesn't answer them in his presentation about the questions they asked Staff. He then showed an example of the seating areas again on the pedestrian point in the commercial interfacing with the residential. It's not very often that you have a commercial that interfaces this well with the residential. Usually you have a commercial on the corner and then you have a completely separate entrance to the residential. They don't work together. This is designed to work completely together.

Mr. Earl said in the original site plan they are showing carriage units along the north property lines. Those are essentially two story, which is a garage underneath and a unit above. They had resistance from the neighbors to the north of that saying there could be potential for privacy issues and they were willing to kind of frost all that glass and have only clear story, but they were very much opposed to that so they removed all of them and moved them to the interior of the site. He went to the site plan and showed them how they moved them on the interior. They also had a concern raised by the fact that they had three-story units that were essentially 100 feet away from the residential. Even though they showed line of site drawings that they would not interrupt their privacy, there still were concerns. They dropped all of those end units, the two-story units so they eliminated this issue. They are about 100 feet away on the north side and on the west side they are even a greater distance away. He went back to the site plan that they have finalized with the residents and showed them in the most recent neighborhood meeting in which they have tried to incorporate all of these design characteristics that are important to the residential folks to the north. Remember, this was zoned C-2 and it was zoned at the time the single-family was zoned as well. If you put a large shopping center on this they think that is actually a better buffer the way they have designed this than potentially a large shopping center here. This is the line of site drawing, which they have prepared in order to demonstrate that the two-story unit does not have a view into the rear yards of these homes. There are two important things here. One, the buildings are now short enough that the view from the window would be to the roof of the house and two, very importantly, they have a strong landscaping buffer along the entire north and along the entire west and the city requires these trees to be 12 feet high when planted. You can't put a spindly little tree, as you know, into these areas. They are talking about a very strong buffer that exists. They showed the trees where they would exist along that wall.

Mr. Earl stated he wanted to take a minute with a couple of other projects to talk about this interface between single-family and multi-family because he has had the opportunity through the years to represent Mark Taylor. All of you are aware of Mark Taylor projects in the city and elsewhere. Mark Taylor and Starpointe built a similar style facility. Because they are Mark Taylor projects in the city up against single-family. He showed the first one. He said you can see it's up against single-family east of the freeway. He was directly involved on the next one, San Brisas, because he was directly involved in that case. That is the one south of Ray Road and on the west side of Rural Road. The next slide shows its relationship to single-family. It has a commercial element on the corner, which is not as well integrated. It faces to the east and has a strong entry feature onto Ray Road. The single-family that was next to that was very much opposed to that project when it was being zoned because they worried about the very same things you have heard the Staff mention about the residents in which they heard in their neighborhood meeting – a potential for apartments to degrade their property values, to create crime and privacy problems and a number of other related issues (crime and transient nature of the folks who would live there). They thought their property and privacy is going to be destroyed. They had a vacant piece just like this. After the project was built, they happened to have another project in

Mesa so they went back and talked to the people that backed up to that project to see how well they had fared and what their impression was after it got built and after it had been there for several years. Not only were they thrilled about the actual construction and how it had worked out, they said they would come with us. They actually took them to the neighborhood meetings out in Mesa so they could tell the neighbors themselves. They were worried too. But when it actually got built it proved that it not only was not harmful to their property values, they actually went up. One actually told them their house value increased because before people were worried about that vacant lot and what could happen on that vacant lot and because they now had an actual project with beautiful trees and lush landscaping and well designed with high-end rents it actually turned out much better than they had every hoped. This is an almost a classic example of this same issue. They brought out one other Mark Taylor project as well that has these same characteristics and he showed where it is located up against single-family homes. In all three cases the values were stabilized because they had vacant land before and it was turned into a high-end project.

Mr. Earl went back to the site plan. They believe strongly and he concluded that the appropriate land use is not the original C-2 for the entire property, although they understand that any time they want to reduce from commercial that is already approved it takes close scrutiny. They scrutinize it as well and that is why they met with Chris Mackay and others and the Staff. He said they wouldn't have the Staff supporting this if they hadn't carefully analyzed this because no one wants to reduce commercial that otherwise would flourish. Everyone felt if they created these 286 high-end units and that they could have about 46,000 square feet utilizing the best of the frontage and create a dynamic high end specialty retail center which would include among other things a Fresh & Easy, a specialty market to take that corner spot, a bank and other restaurants interested in those corners as you enter the project. They think it is the best possible use of the property.

As far as the impact on schools, they have discussed this matter with the superintendent. They believe they can accommodate these students because over time this is a maturing area so the population will stabilize. This kind of unit does not historically and based on all of the other projects they have built, does not produce a lot of children. The kind of people that move into these higher-end units tend to not have a lot of children that are school age, between the ages of 5 and 18. They may have one or two children that are smaller than they tend to move to their home before the children get older, although they do have facilities and amenities for children. Our experience is that it is about .2 children per unit. They are only talking about something in the order of twenty to forty children total out of this project in the school system. In talking to the superintendent, they felt they could accommodate these children over time. There was a question on about how many phases will this project have? The answer to that question is they plan to make this one phase. The only exception to that is their Fresh & Easy will control that construction for their pad that's in the project and the bank will control the actual construction of their pad, but the balance of the center they would be building. They would be building out

the whole project although not all stores would be constructed at the same time. He said he would glad to respond to any other questions.

**VICE CHAIRMAN IRBY** thanked him and said he had a couple of questions. In their neighborhood meetings, obviously they have had several because you have generated changes in your site plan, were the overwhelming comments mainly dealing with multiple stories near their property lines or was it a combination of that and rental units? Mr. Earl replied that there are some folks here tonight and he doesn't want to put words in their mouths because he was not at the neighborhood meeting, his partner was. They did spend a lot of time going door to door and at the neighborhood meetings what they heard in terms of concern was they just don't like apartments, don't think they should be there and they worried about property values going down if you put rental units on the other side of the wall. They did worry about privacy and the height of the buildings – that is why they brought them down. From the first meeting to the second meeting they eliminated that third story, took out the carriage units and made sure they had strong landscaping, a lush landscaping buffer and the line of sight would not go into their backyards.

**VICE CHAIRMAN IRBY** said overall he thinks it is a very nice looking project and integrates real well with the residential and commercial sides of it and he loves the focal entry feature into the project. It is very classy and well done. The concerns he has is that there client are doing all these condominiums which are for sale, how much rental experience and do they plan on maintaining ownership of this? That is usually a concern about a flipping a project or never becoming condominiums and always being a rental type market? Mr. Earl responded that they have built condominiums for the last 10 years and of course they have been very successful at it. The only reason this isn't a condominium is because of the market. That is why they are building them as condominiums even though they are going to rent them and at the appropriate time in the future they will be able to convert them into condominiums. Of course, ultimately, as they sell them then they would no longer be involved. Except for that this is an ownership project.

**VICE CHAIRMAN IRBY** said he has been a landlord himself and they are a lot of work. Are they gearing up a division to be a management company or are they going to hire an outside management company to run this operation? Mr. Earl said Rob Lyle, the President of Starpointe, is indicating they would manage the project themselves and they have had the opportunity to manage all these other condominium projects throughout the state and that's their intent here. Again, in order to make it condominium convertible you have to start with that kind of quality. You start with granite countertops, higher ceilings and fireplaces and amenities. The rent starts at \$1000 and goes up to \$1500 for these units. They are at the higher-end of the market on rent.

**VICE CHAIRMAN IRBY** said he had a lot of experience doing lots of multi-family projects back in the late 70's and early 80's and at that time condominiums were not a favorite word for people at the time. There were apartments designed to be future

condominiums and he doesn't think they ever went condominium. The current zoning on this thing allows what type of uses if you didn't build the residential component? Mr. Early said the current C-2 zoning did not limit the scope of retail development so it's your normal C-2 intermediate commercial zoning that would allow, as one would expect, a variety of large retail centers with several major tenants. At 22, almost 23 acres, that would allow two to three major tenants with a variety of shops and pads. That was the original plan. Since that time a number of large projects have been built including the ones mentioned by Chris Mackay and now you have 3.5 million square feet of retail development in the area. They think 46,000 square feet of specialty retail now will work whereas the other they don't think would have worked.

**VICE CHAIRMAN IRBY** said if the original plans were made it was probably going to be a loading zone for retail backing up to residential. Mr. Earl said they tried to point that out to the residents. It has been sitting there all these years with no development on it and having a vacant piece on a corner like this is very unfortunate. They said if it did develop, those major tenants would have had dock high loading in the back with two-story homes, which are about the worst combination of things you could ever have. He has had some experience with putting in commercial after the homes were built and having people at the second story level listen to the functions of loading and unloading. It would not have been a good mix. Vice Chairman Irby agreed with him.

**COMMISSIONER RIVERS** said he showed them four different projects in their presentation. He was wondering of those four different projects how many were mixed-use and how many were purely condominium. Mr. Earl stated that the first one known as Artesia was a mixed-use project (North Scottsdale). That had 22,000 square feet of retail in the front and it had condominiums behind it. There were 480 units in that project by comparison to there 286. The Stone Creek project was purely condominium units south of the golf course. It fronts onto Tatum. It's north of commercial and south commercial but there is no commercial in it. The Indigo project, the third case, was purely again condominium units. It's on the west side of I-10 between Chandler Boulevard and Frye. The last one, which is the Biaggio project and the one they are very familiar with will have retail on the corner but they have built the condominiums that would surround that commercial. It was not a fully integrated project. Obviously, they hope to have the commercial integrate with the project they built. This one would be like the first one they mentioned in North Scottsdale to have the retail on the front and have the condominium units come off of the retail.

**COMMISSIONER RIVERS** stated he is a little concerned because even though he didn't sit there while Biaggio was going through and the superlatives were flying. It was a gorgeous property, the mixed-use was terrific, the step down size of the buildings was wonderful, but whatever happened to the commercial side of that? It is still sitting as dirt today.

Mr. Earl responded that unlike this situation where they own all of the property, that one they never did own the retail corner they owned the surrounding residential. On this

project there was a request for a stipulation that this would be one phase. They are happy with that stipulation. This is going to be an integrated project so it will go up unlike the project he mentioned, the Biaggio project. They are able to control the construction. The only thing that doesn't go up as part of that phase is the two stores that are actually pads within their overall project.

**COMMISSIONER RIVERS** said the locations for those stores would be very obvious to the observer watching this project go up. In other words, there won't just be major chunks of dirt that will sit there for years and years while we wait for the commercial part of this project as we have been waiting for Biaggio? Mr. Earl said that was correct. What they are suggesting here is they are building what they are seeing. The rendering that they show is the major throat up coming from Chandler Boulevard - that all gets built together.

**COMMISSIONER GULSVIG** said to Mr. Earl that he is curious about the buffer zone. If this gets approved would that be on a first priority to be built next to the residential area so that there is some screening already in place by the time they start building? Mr. Earl said that was an excellent question. They plan to build the buffer as a part of the initial construction that they are doing so that the plans would have a chance to grow up. They are 12 feet when planted as required. They are not small plants; not 15 gallon type trees. They start out at a decent height, which the city requires. That would give them an opportunity to grow as the construction moves along. That is part of the initial work they are doing on the site.

**COMMISSIONER CASON** stated he had quite a few questions he offered to Staff that perhaps he hadn't had a chance to get back with them on. He wanted to clarify some of those now. His first one was would they be willing to stipulate the work with Staff to situate their shading so that it shades the pedestrian seating areas better than it does currently, at least in the landscape renderings? Mr. Earl replied that Dean Munkachy is here, their project architect. He thought he had done that, creating a design that did shade those pedestrian areas. He said he would ask Dean to come up. They have actually created another exhibit. They weren't exactly sure what the nature of the question was because they have along the front of the commercial they have the overhangs to create that shades walkway area. So is he referring to the seating areas north of that as you come around the fountain? He thought they had been pretty good about making sure that they shaded all of their pedestrian areas.

**COMMISSIONER CASON** thought it was on the southwest corner of the shops that face Chandler Boulevard. I think that was the basic area he was referring to. He wasn't really concerned with the apartment area as much as he was around the shops discounting the area between the shops east of their entryway. It's kind of obvious that is shaded in. He thinks they have seating areas on the southeast corner of the shops and the southwest corner of the shops. Is that correct? Mr. Earl said as you can see on the site plan around the entire front of the shops all the way around they have an overhang for shade and in addition they are showing trees along both sides. This is the feature that shows the

location of the trees. They felt they have been pretty careful to shade those areas but they are happy to sit down with Staff and make sure they have done this right. Obviously, they want to have shaded areas in the summer when these are particularly vulnerable to the heat of the sun.

One of their drawings they have external staircases. He can't see all the staircases that go up to the individual units. Are some of the staircases hidden within the construction and some of them are exposed. How does that really work? Mr. Earl said they try to cover and hide all the staircases throughout the project.

**COMMISSIONER CASON** asked is the project designed so that there can't be any elevators? That wouldn't work because there is no centralized way to get to the units? Mr. Earl said that is correct. These are not internally loaded. They are externally loaded but that is why they pay particular attention to covering the staircases so they are not directly visible when you are looking at the project. You are seeing part of the architecture of the buildings that cover up the staircases.

**COMMISSIONER CASON** said before they bring their architect up, he stated he was concerned about the refuse areas located up against the north wall. He asked if those could be relocated to the opposite side of the parking lot? Mr. Earl said yes they have agreed with Staff that they will relocate them on the other side of that drive aisle away from the residential side.

**COMMISSIONER CASON** asked that they have said just the bank and the pad south of the bank would be the only two buildings that would not be built initially? Mr. Earl said the pad at the corner is the Fresh & Easy pad and that they will be building their own building. They are building everything around it but they are building their actual building and the bank pad at the north end. Everything in between is part of their project and everything over here all the way along Chandler Boulevard is part of their project.

**COMMISSIONER CASON** asked if they were to draw a line, there would be a line between the Fresh & Easy and everything north? Mr. Earl said yes. Everything between the north end of the Fresh & Easy and the bank is all part of their project.

**COMMISSIONER CASON** asked if they then could change their phasing lines to include in Phase I the shops north of the Fresh & Easy and the shops west of the Fresh & Easy? Mr. Earl said the architect and owner were conferring so they could answer his question properly.

**COMMISSIONER CASON** said he noticed in their presentation that they have a lot of shade structure that's a canvas type shade structure. By the size of those he doesn't know if it would be feasible to turn that into metal or something a little more survivable. Would there be a possibility that those shade covers when they rot will be replaced as if they were the rest of the landscaping and perhaps they could stipulate that the homeowners association will control that in a fashion as if it were landscaping and replace those when

they need to be? Mr. Earl said the answer to that second part of that question is yes. They are happy to that and would be part of the routine maintenance to replace them. They like the look but they know they need to be replaced.

Mr. Earl said the answer to his other question about phasing is yes.

**COMMISSIONER CASON** said that was very good. He also had some sign questions about how some signs are situated against one another and he did have a concern about taking apartments and turning them into condominiums for only some tax revenue issues. He can discuss that with Staff. He asked if they could help him understand why or their rationale for not building their retail out towards the street and internalizing their parking? Mr. Earl answered that the number one reason is that the city requires a 50-foot setback and so if they require that 50-foot landscape setback now you could bring that forward but they don't have the opportunity to create enough parking. They need to create parking. As you can see on their project, they have heavy landscaping along the frontage of both sides of this project. They needed to field the parking by moving these forward. They didn't feel the commercial related as well as they wanted it to relate. The entry would be pulled so far forward. They wanted this focal point in the middle from which everything draws as you are coming in through and you pass by these strong architectural towers and into the area where the fountain is. This created a much stronger look and integration between the two uses and to push one far forward and they were frankly worried about the amount of parking.

**GARY TODD, 4019 N. 44<sup>TH</sup> STREET, PHOENIX**, stated that regarding the stairs they actually have three conditions along Chandler Boulevard where they have shaded areas and the building actually steps down and they have stairs that run up two units. Unlike a lot of apartments, you have your own stair. On the east and west elevations, if you see those in the booklet, they have used a founders finished block and actually have enclosed the ends of the stairs so you don't see the diagonal run. That can be seen on sheet E-5 in their book. If you look at that and the lower elevation and you will see that each of those stairs have a founders finished block and tried to enclose those the best they can so it would be a nice quality finish.

**COMMISSIONER CASON** asked on the elevation on E-1 on the building type 1 south elevation, is there something they can do about hiding that staircase? Mr. Todd said yes they could look at that. They were particularly concerned about what was exposed from the street but yes they can look at that.

**COMMISSIONER CASON** said he would look at Staff's input but it seems out of place to him by having those stairs exposed when everything else is pretty well hidden. He asked Mr. Todd if he could help him with his sign questions. Mr. Todd said he would bring up Mr. Munkachy, the retail architect.

**DEAN MUNKACHY** said they have a diagram that they prepared showing the two locations; one on Gilbert and one on Chandler Boulevard where they actually had to

combine the monument sign with the entry wall for the retail portion of the project. That is flanked on the opposite side by an entry wall that announces the apartment project.

**COMMISSIONER CASON** asked specifically to STB-2 and STC-1 in the drawing (I-3) how those two signs relate? Also, STB-3 and STC-2, how those two signs relate? One of them is their curve a linear sign that announces the condominium project. What's the C-1 and doesn't C-1 rest within the radius of STB-2 so that those signs are right on top of each other? Mr. Todd showed the diagram on the overhead. Mr. Munkachy said the diagram for the layout of it as the top and they can see the integrated elevation of those two. Commissioner Cason said what they are saying is STC-1 and STB-2 is two parts of this integrated sign. Mr. Munkachy said yes.

**VICE CHAIRMAN IRBY** said in coming back to the three-story stair discussion he was going to recommend maybe some spandrel beams to mimic balconies to help shield the enormous stair tower. Mr. Earl said that was an excellent suggestion.

**COMMISSIONER KELLEY** said he was concerned about is that they didn't extend Neuman Way south into the site. Can they tell him why that was? Mr. Earl said the reason was that they felt there would be fairly significant opposition from the neighborhood to the north to have access not only from them into this project but also from their project as well into the single-family area. While they thought it was wonderful to integrate commercial with multi-family, because the homes existed for a long time they felt introducing that access at this point and time as opposed to back before the houses were built would create a significant issue.

**COMMISSIONER KELLEY** asked if they would consider abandoning that portion of Neuman Way as a portion of this project as opposed to leaving it as a stub street? Mr. Earl said the challenge is that if they try and cul-de-sac it, it would come into the site. One thing they could do is try to abandon it at the east/west line and then the only challenge is if the people who own either side of it willing to include that inside their yards. It sounds like everyone ought to be willing to do that because you get more yard. His experience through the years has been that is not always the case. If they don't get full cooperation from those two owners, then they will really have a hard time. If he's asking that they agree to help process that if there were a willingness on the part of the owners to allow it the answer would be yes, they can do that if they have cooperation from those who would be directly affected.

**COMMISSIONER KELLEY** asked Staff what would be the appropriate way to handle that?

**JODIE NOVAK, SENIOR PLANNER**, stated that this is city public right-of-way so it would have to go through our Public Works department, Traffic Engineering Division to evaluate if this wasn't even a possibility for that road to be abandoned. There may be utilities there or other city infrastructure where we couldn't. It would have to be looked

at through the city first before the developer would have an opportunity to approach the homeowners to see if was possible.

**VICE CHAIRMAN IRBY** said there was a situation like that in his neighborhood where a future phase was supposed to be additional homes. There was a street very similar to this one and it turned out Bashas Elementary bought the lot and developed it. But for a long time it was just a little street that looked awkward and stupid and nobody drove on it so it became more and more dirty. He doesn't know how they solved it, but eventually it came through to where they created a sidewalk and tore out the street and each neighbor got a larger back yard with a sidewalk going through it. This case you wouldn't need the sidewalk. May be they could research how they did that and maybe they can add a stipulation because he hates seeing vacant little areas that are planned to continue and then they don't. Maybe they can add a stip. that says that the developer will help to make that a reality.

**GLENN BROCKMAN, ASSISTANT CITY ATTORNEY**, stated roadway vacations are within the jurisdiction of the City Council. They have to make a determination however, that the roadway is no longer needed for a public purpose. Commissioner Irby said similar to abandoning an alley. Mr. Brockman said exactly it's pretty much the same. If there are utility easements in the road, there is a statutory right to remain there. It's really out of your domain. He thought any property owner could request public works to consider that.

**VICE CHAIRMAN IRBY** said maybe we could research that. He hates these little oddball conditions that become a dead end to nowhere.

**COMMISSIONER RIVERS** said he had a question regarding traffic flow. The gate at the west end of the property is a one way out and the gate at the other end at the northeast corner, is that gated as well or is that free flow? Mr. Earl said it's free flow into the commercial but not into the residential. That is also gated.

**COMMISSIONER RIVERS** asked if there was some issue with the fire department because they need two ways in and out? Mr. Earl said the standard way that the fire department wants to deal with this is that they have an automatic to have the gate open whenever they approach it. Commissioner Rivers said basically most of the time anybody who lives in any one of these apartments to get to their apartment has to go through the major entrance and around the fountain. Is that correct? Mr. Earl stated that residents could approach from Gilbert Road through this entrance. This is an exit only along the west as he noted, the primary way for people to come in and out of the project is from the promenade entrance. They could come off of Gilbert Road through that gate. That would be an alternative way for them to come in and out and a private way. Primarily, the promenade entrance is the grand entrance of the whole project.

**COMMISSIONER CASON** said he had one more sign question. On I-7 they have the address numbers at the bottom of the monument. What type of view problems is that

going to have with the landscaping, if any? Mr. Earl said he was going to direct him to the exhibit that they showed him last time and indicate that they have moved the address numbers to the top of the sign.

**MR. EARL** said he knows one thing for sure and that is the Commission has carefully analyzed their booklet if they are getting down to the location of the address numbers.

**VICE CHAIRMAN IRBY** said he had several speaker cards from the audience. He is going to limit everybody to three minutes to get their point across.

**HANSON ROHR, 2781 E. TYSON STREET, CHANDLER** is opposed to the project and wanted to speak. He was no longer present.

**LEE COUNSILOR, 2621 E. BINNER DR., CHANDLER** stated he is against this project. He is against it because of the apartments. If they were coming in as condominiums it might be different but right now it's rental. With the housing market the way it houses can't sell and people are going to rentals. When the market turns, the rentals become empty and they will be sitting with something that eventually could turn into lower income or section 8 apartments. The other thing is Gilbert and Chandler Boulevard is one of the highest traffic areas there is. Every night they here the ambulances and fire trucks running there two to three times a night. If you add 286 units, that's approximately 572 cars based on 2 cars per resident. Most people make ten trips in and out of their places every day. You are talking over 5900 trips in and out of there just in the residences not in who is coming into the retail. The issue was brought up that if this doesn't go through, they would be making it into a box retail or some kind of retail. In talking with the planner that even if they did that the liberties can be limited with no deliveries after 10 p.m. and not before 6 a.m. They still wouldn't have the noise issue at night. There major concerns is the noise issues at night, the crimes issues and the people coming to and from around that area. He said he appreciated their time this evening.

**COMMISSIONER RIVERS** asked him if he lives next to this project? Mr. Counsilor said he lives four houses from the west side. He is in the very last house that was in the 600-foot radius. Commissioner Rivers asked does his house back to the project? Mr. Counsilor said it does not back to the project. He is three houses over from the last house on the west side.

**CRAIG KOLBERG, 2841 E. TYSON STREET, CHANDLER**, stated his house is directly adjacent on the north wall. He too is opposed to this project. He lived in Dobson Ranch prior to this in the 70's and he is afraid he is seeing the same pattern that developed there. That was once a very prominent area and very nice. They saw a downturn in the economy and houses quit being built, retail and commercial space was overbuilt so they started throwing apartment units in. There is another proposal that is going to come before the Commission on Chandler Blvd. between McQueen and Cooper. Another variance is being changed to go from Commercial C-2 to multi-family. You see it along the freeway. These apartments are going to have to compete against comps. not

only with single-family houses but also other apartments. His fear is the same thing will happen here that happened at Dobson Ranch. You will see a lot of low-end apartments. Everything went downhill from there.

**VICE CHAIRMAN IRBY** said his memory of Dobson Ranch was that it was a pretty nicely master planned community where it had designed into it areas for apartments. Mr. Kolberg said right they started out as high-end apartment units and then when houses started coming back they were competing against larger houses. This isn't North Scottsdale, Tatum Ranch or Paradise Valley and he didn't think they are going to see the same people living in there that are just winter visitors. He thinks you will see people here year round. There is just too much competition from single-family residences in the 2500 to 3000 foot range. Vice Chairman Irby said these type projects usually have a different type of clientele - Somebody that doesn't want to maintain a yard anymore and so forth.

**IAN YOUNG, 2811 E. TYSON STREET, CHANDLER**, is in opposition but does not want to speak.

**CHRIS HARRIS, 2801 E. TYSON STREET, CHANDLER**, is in opposition but does not wish to speak.

**WILLIE HALL, 2761 E. TYSON STREET, CHANDLER**, stated that his home is right across the wall on the north side from where this project is. He pretty much agrees with the two previous speakers and their concerns are also his. Something that never gets mentioned and this is about the third meeting he has gone to, they never talk about the parking. There is going to be covered parking 15 feet from his back wall. That never seems to get mentioned. He is not saying that they are leaving that out on purpose but it never seems to get mentioned. It was not mentioned during the presentation. They can talk about the landscaping area, but there is never anything said about the covered parking that's going to be 15 feet from their back wall.

**VICE CHAIRMAN IRBY** asked what his concern was about the covered parking? Mr. Hall said number one, noise and number two, lights, people in and out of there and car noises. At least if it was commercial, there would be certain hours they could be in there. There is nothing to say these people can't be coming all hours of the day and night. There are cars back there and alarms will be going off. There are lights. They say they can block the lights but I don't totally believe you can block the lights where they are not going to interfere with the houses along that north wall. That is what concerns he has to go along with everything else that the other two speakers brought up. He just wanted to point that out on the parking. Vice Chairman Irby said they do have exhibits in their booklet that identify it as carports. Mr. Hall said there was nothing about it in their presentation. They talked about the high-end and how big it is. Vice Chairman Irby said the way he understood it and the applicant might clarify that when he comes back up. They have 15-feet of landscaped area starting out with 12-foot tall trees. On covered parking the lights are usually situated so they shine down not out. And usually they are

not much taller than the perimeter wall. We can clarify what the height of the perimeter wall is also. Vice Chairman Irby said carports are actually better than no carports in terms of light and noise. It traps the noise a little bit more. Mr. Hall said they have been told if this project doesn't go through they could be faced with some other type of commercial business in there and like he has told them before he would much rather have commercial in there than family for the same reason that the other gentlemen is talking about. They might be high-end when they start, but at some point in time they are going to go down and then they are going to end up with less than desirable neighbors. Just like the other gentlemen said, he has seen it before. He thinks that is something that they are going to be faced with.

**LINDA LEWINDOWSKI, 213 N. KIMBERLEE WAY, CHANDLER,** said her property is on the west side. It is directly behind a carriage house that she was told wasn't going to be there. She has concerns like everybody else with the parking, the noises and car alarms going off. She has a dog that will probably be barking all the time now. There are lights that are going to be under the covered parking. Lights always bring bugs. These are things that have always been glossed over. She has gone to every single meeting and all we hear about is the great high-end things and interior pictures of apartments/condominiums. There isn't anything that they can say that can convince her that it is to their best interest to have these behind us. She is very much opposed to this.

**VICE CHAIRMAN IRBY** asked her if her property was one of the odd shaped properties? Ms. Lewindowski said yes she is. She is the very, very end. Vice Chairman Irby said obviously if that went away she would end up with parking spaces. Ms. Lewindowski said then she would have car alarms going off and people beeping in and out of their cars. Vice Chairman Irby said he didn't know if she didn't like the idea of the carriage house. The carriage house would be a two-story unit closer to her property line. Ms. Lewindowski said she has a pool that she likes to enjoy and that really doesn't appeal to her. Vice Chairman Irby said they would have the applicant explain that to her and to them. Ms. Lewindowski said not once has anybody come by her house and her husband works out of the house. She watched the gentlemen go through the neighborhood but he did not stop at her house. If this does get approved, she has concerns about dust and trash and dirt. Are they going to provide pool covers for them? She said it's not cheap to maintain a pool. Vice Chairman Irby said he knows that and wished he didn't have one. Ms. Lewindowski said as far as the rest of the homes on the west side, she believes that they have two or three that are already in foreclosure. She doesn't see why they are adding more apartments to a neighborhood that's already having troubles. Vice Chairman Irby said that is kind of uniform around the whole state. Single-family homes have a different need than people that are in apartments.

**COMMISSIONER CREEDON** asked if this were a grocer with a loading dock, would you have opposition to that as well? Ms. Lewindowski said they tried the scare tactics with us as well. Every meeting they have gone to they have said you are going to have a big box behind them. That doesn't scare me. Loading docks are controlled by the number of hours. She would be o.k. with that.

**VICE CHAIRMAN IRBY** went to the audience and asked if anybody else wanted to speak and voice their concerns. There were none. He went back to the applicant to address some of the comments and concerns he heard.

**MR. EARL** said he would like to explain some of the issues that they have heard before and will try and explain them appropriately tonight. The first issue is a concern expressed that we have a down market now for single-family but when it increases and it will, the rental market will then decrease and they will end up with section 8 housing. It sounds like a potential fear but that really is an unfounded fear. They don't know of a single instance and certainly nothing in the experience of Starpointe and all the units they have built. Where there is a radical downturn when single-family goes up rental goes down. It's an entirely different market. Their market is for people who have decided they are not ready to go into the single-family market or most importantly, they have been in the single-family and they want to have a resort environment where everything is taken care of for them and they don't have to worry about it anymore. They like the lush landscaping, the amenities both interior as well as the exterior amenities. That person is going to be in a rental market regardless rather than single-family. The notion that they could spend this much money creating these units and having granite countertops and cathedral ceilings and fireplaces and pools and clubhouses and all of a sudden it's going to become section 8 housing. I don't think that is a reasonable fear.

The second issue that was raised was the issue of traffic. They don't use scare tactics. All they tried to say is the current zoning is C-2 and when you have C-2 that is for shopping centers. They try to compare the impact of this project versus a C-2 project. What's there today is nothing. Now C-2 as they have indicated with the market study may be that way for a long time. Candidly, he doesn't think he would like to live next to a dirt field, even one that is maintained. It's still a dirt field. That creates a lot of uncertainty. If it remains that way, that is not necessarily a good thing. If it gets developed and it isn't successful as some shopping centers have been in this area, that's not a good thing. If it were successful, what would be the impact? The traffic would be double if you had a normal size shopping center on this site. They do have arterial streets on both sides and they are major arterial streets. They have chatted with traffic about this. They do not believe that they will be degrading this intersection (the service levels of the intersection). They have been designed to accommodate this. The second speaker did talk about that same downturn in the economy. They do believe it's a different lifestyle person that is going to be renting at the high end of the market and they don't think that will be affected when single-family comes back. It's a different group of folks who decide they don't want to live in single-family or they haven't yet moved in or their family is small or they have decided not to live in single-family now that their family is raised.

He said in regards to parking they didn't try to hide the fact. The site plan does show parking along the north boundary line. Many of those spaces are covered. That canopy is at 8 feet 7 inches. The lighting is underneath and shielded, as it's required by

ordinance. The light is going straight down and it is shielded on the end so that will not have light escaping into the neighborhood. You won't be able to see the source of light underneath the canopy. Again, it's recessed in the canopy. They believe that will not have a negative impact. The wall is a normal 6-foot wall but you have landscaping that is required by ordinance to be at 12 feet when installed. You have a 6-foot wall and 12-foot landscaping before you get to the canopy, which is 8 feet 7 inches. They can't see how that would negatively effect, given the tree canopy to have those there. In fact, they do believe that C-2 zoning would have more activity in the rear, which has a tendency to be louder. The activity associated with commercial tends to be larger trucks not passenger vehicles. That does carry louder noise associated with it and it does carry a lot more light in those situations. That last speaker talked about the carriage house on the west end of the project and that is referring to that location which he showed on the Elmo. He showed where the carriage unit is. Before he gets to the actual elevation, the closest point is considerably farther away than the carriage houses that were going to be on the north. This is 32 feet from the property line. The farther point is 62 feet away from the property line. He showed the front of the unit and the back of the unit. These units are oriented to the front. It's a different lifestyle and you are living above a garage. It's a unique lifestyle that some people really like. They have become very popular. All of the windows are in the front facing into the project. The whole idea of this is to face into the amenities of the project. The exterior here, which is the highest point of the building, is 25 feet. The only windows on that side are these kinds of clerestory windows at a very high level that are frosted. There is no view to the west out of that unit. That is why they felt that it would not be an objectionable unit. It is the only one that is in this corner and that's because it was significantly farther away.

**VICE CHAIRMAN IRBY** said in their elevation of that it looks like they have some clear stories on the edges of the unit but in the center it looks like some full height windows. Mr. Earl said they are not living space windows.

**GARY TODD** stated those windows you see in the center of that is where you come up to the landing. If you are looking at the entry elevation, you have a stair in the center and you come up to the top. When you come up to the top of the stair, they are translucent so you can't look down beyond but it puts some light into the stairwell - all three of them. Then you have the landing and the entries going to the right and to the left of the units.

**VICE CHAIRMAN IRBY** said when he is looking at their site plan, he sees a little higher up one on that same property line. It looks like a single-story unit also. Is he reading that correctly? Mr. Todd said that is the light maintenance where you store your light bulbs, etc. Vice Chairman Irby said then it's more of a maintenance area for the entire site. Would they be opposed to eliminating that carriage house? Mr. Earl said they would prefer not to lose the units but they would try to move it. Vice Chairman Irby said does it fit in a normal parking stall almost? Mr. Todd said it is a little bit deeper because there is garage faces below that so you have a little bit more depth to house those garage spaces. There might be opportunities just north and east of that in that central green amenity that you see there. They could look at that area and re-space those garages. That

is some of what they did to accommodate removing the garages from the north property line. They need to look at that and create an area there. They can go back and re-evaluate that. Vice Chairman Irby said he was curious whether it would even fit in their far east property line behind the grocery shop area. Mr. Todd said there is depth there to do that. Vice Chairman Irby said he would like to see it relocated. It seems kind of an awkward spot. It's kind of an exit more than anything else and there is a lot of traffic flow through there. Mr. Earl said they could agree with a stipulation that has us relocate it.

**COMMISSIONER RIVERS** asked if all the units (residences) each have a garage? Mr. Todd said no they do not. The carriage units do get 2 cars and it is a pretty nice situation. All of them will have a covered space. Some will pay a premium for the use of the garages. Commissioner Rivers said if he remembered correctly along the 101 there are apartments with garages. When you have high-end apartments why would you not build garages for the occupants? Mr. Todd said there are a number of reasons but he thinks the best way to answer that is to say that this project offers a better balanced amenity package than you normally see on multi-housing rental projects. It has higher quality in many areas when you look through the package. He has designed several of these projects and he can tell you that they have put a lot into the amenity package, a water park in and a lot of things. The balance was to provide a certain number of garages but not every unit. Commissioner Rivers said if they are looking down the road to changing these to condominiums and selling them, he would think that they would not to sell a garage with each unit. He must not understand the market because he does not know that he would buy a condominium that didn't have a garage. If you are going to move into a situation where you are going to live for some period of time and you are ready to settle for covered or uncovered parking, this wouldn't seem to be the place where you would want to buy. That is just his opinion. He is just trying to straighten out whether they have garages or whether they don't. Mr. Earl said he can completely appreciate his point of view but he said there are condominium projects currently being sold where you don't have garages for every unit.

**COMMISSIONER CASON** said Commissioner Rivers brings up a good point. He was going to mention this before when they had said they were going to convert condos. at some time in the future. Because they are carports he started looking at some of the floor plans and realized that with some exception there is no external storage of these. He sees on unit A2 there is an external storage on the balcony but you would have to hike your motor oil all the way through the unit to get to the storage. Usually, at least what he has seen in the past when you have a condominium complex and you have covered parking, you usually some sort of storage there in order to be able to store automotive items if you will. How do you propose to store your automotive items when you convert to condominiums? Mr. Todd said when you look through the unit package when you start at F2 or F1, you'll notice that the carriage units which have a garage with them have a storage as a result of having a garage and every unit that does not have a garage has exterior storage.

**VICE CHAIRMAN IRBY** asked on F4 where is the exterior storage? Mr. Todd said this particular unit if you compare it to the other units has an exterior closet that is marked on the right hand side. Before you go into the entry there is a storage area above the water heater and then there is an additional closet added as soon as you come into the unit on the right hand side for storage. This one has both because the exterior one was small so they added an interior one. Mr. Todd said they will have storage on every one of these units and again the only ones that don't indicate storage are the ones that already have storage built into their garages. Vice Chairman Irby said when he was looking at F6 it was kind of hard to find and the water heater looked like it would take up the whole closet. It looks like F5 has a lot more flexibility with the water heater and still some closet space. Mr. Todd replied that one of the nice features of a condominium unit a lot of apartments they have just one view out when you go onto your balcony. These are corner balcony situations. They cut back the storage so that you really have a wide-open view. You have a two way; two sides to look out there and you have a much more open patio. You have to weigh how large does the storage become and how long does it become versus how much openness when you are sitting in the unit or out on the patio. Vice Chairman Irby said he was not playing architect for him but he would have flipped the storage to the other side and moved the window down but he understands what he is talking about.

**VICE CHAIRMAN IRBY** said before they go to vote he studied this project a lot. He hates to see any commercial land get used up for residential property no matter where it is. He will admit there are certain areas in the city that you could leave open for commercial development and it will just never happen. This is probably one of those properties. He thinks they did a very nice job architecturally. I think the two projects blend into together. He likes how they somewhat overlap. The entry feature is very well done. It's very majestic and he thinks they look very good together. If he understands them correctly, the only reason you are not building a grocery and the bank in terms of phase I is they are just being built by somebody else and he doesn't see those as being two or three years down the road, they are just out of their control in terms as being built at the exact same time.

**COMMISSIONER CASON** asked Mr. Swanson, City Planner, for clarification on the third paragraph, page 27, this was originally zoned for 16-acre commercial and 10-acre multi-family in 1993? Mr. Swanson answered that was correct. When you are looking at the site plan on the west side where you see that angle, if you go in a third or a quarter that was what was considered the multi-family portion. The multi-family was when it originally came in on the west side. Commissioner Cason said if he understands the document correctly even though the master plan for this area was approved, the single-family on the north was approved in the second rezoning in 1995. Is that correct? Mr. Swanson said that is correct. Generally, as one of their processes for approval they will put on a timing condition for construction to start. That is what happened in this situation where nothing happened for two years. Then in 1995 they came back and as part of that new rezoning for the Dobson Place subdivision to the north, they then also requested to change the zoning of that piece. Commissioner Cason said as part of that rezoning for

the single-family, the site they are speaking about now, the multi-family, was removed and it became all commercial at that time. Mr. Swanson said that was correct. Commissioner Cason said so the people that would have moved into those houses would have considered those houses to be adjoining commercial and not multi-family because that zoning changed at the same time that their property was going through planning. Mr. Swanson said that was correct and had the residents inquired of what was going to come in south or east of them is would have been zoned for commercial.

**COMMISSIONER RIVERS** said from his prospective a few weeks ago this Commission heard about idling cars at a car wash and the car wash developer set up several mitigations for the noise created by idling cars. This project will have hundreds more of idling cars than the car wash did and minimal noise abatement. The car wash was going to operate during day times only. This parking lot will operate 24/7. There are several traffic issues and traffic flow issues and listening to the neighbors. They get to look at the project tonight and it looks very good and the architecture is wonderful but the neighbors have to live with the project everyday. With the garage questions that he had and the lack of storage questions that were brought up, he can't visualize anybody using these places as permanent homes in their current drawn condition and therefore, he will be voting against this project.

**COMMISSIONER GULSVIG** said he has heard a lot of different testimony here and he at one time lived very close to this project and this used to be Norton's bar sitting on this corner. It had a lot of activity until they moved away. The residents are not unfamiliar with noise. He appreciates the fact that the residents have got concerns about this property going up here but from a land use standpoint he also appreciates Chris Mackay's detailed review of the potential for this piece of property. He would hate for it to site vacant for another ten years until a developer comes along and tries to put something in here. He is familiar with the other properties that the applicant showed us. They are all quality products. This is a quality product. When he came in tonight, he had mixed emotions about voting for or against this because of the fact the neighborhood is in opposition to it. They heard testimony from six or seven people and there are about 20 people all total who are in opposition to it. From his standpoint they are a recommending body up here and looking at this from a land use standpoint he thinks this particular application is probably about the best that your neighborhood out there is going to pick up because it is such a quality product. On that basis, he will be in favor of it.

**COMMISSIONER CREEDON** said she is going to echo many of his same comments. She does feel like this is a quality project and she lives right next door to the Biaggio literally a street behind it. She has never had a single problem not during construction or after construction. It's a very high quality project. She believes this one will be as well. She has been through many of the complexes that they brought up tonight. She doesn't consider any of those and they are very well established, they are not even close to being section 8 nor any of the individuals that live there. She considers those quality developments as well. Just because a person chooses not to live in a home doesn't make an apartment complex necessarily a lesser class than the rest of us. She said she will be

voting very much in favor of this project and she does appreciate Staff. They took a great deal of time in insuring this is quality architecture. She likes the walk ability with the commercial so she will be voting very much in favor.

**COMMISSIONER KELLEY** stated he had an opportunity to visit Artesia in Scottsdale. It's a fabulous community, it's beautiful and he is excited that Chandler is going to get a version of Artesia. He would say as a Planner when he is setting up land uses and he is putting commercial and single-family on a piece of paper, he usually tries to buffer between those two uses with multi-family. This seems like a perfect response to this issue and problem for the site. He will be voting in favor as well.

**COMMISSIONER CASON** said he thinks this is a great project and the architecture is wonderful. He likes the fact there is some commercial on it but he has to oppose it for one single reason and that's because he not only sits up here but he has been down there and spoken to City Council about how people need to perform due diligence on the biggest investment they will every make, and that's there home. He has demonstrated publicly his personal distaste for those who don't bother to perform their due diligence and now they are surprised that something is going to move in. Therefore, because he has always taken that position in the past he has kind of painted himself into a corner and he can't support a project when the people that moved in their due diligence would have demonstrated nothing but retail in this area. That is what they were expecting to get whether it develops now or whether it develops 10 years from now. The fact that it is not economically viable now as Chris said, but 20 years from now it's commercial property and it has taxable square footage. If it reverts to condominiums, that taxable square footage goes away that they would have gotten for apartments. Any place else the project would have been great. He likes everything about the project except for the fact that it was changed to all commercial when the residents bought their house so he thinks they should get some benefit for the fact that they performed adequate due diligence and they would like that property to remain that way.

**VICE CHAIRMAN IRBY** entertained a motion. He asked about another item and he didn't know if it needed to be a stipulation. Somehow exploring the possibility of that street to the north. He didn't know how to address that.

**GLENN BROCKMAN, ASSISTANT CITY ATTORNEY**, stated that could not be a stipulation imposed on the owner. That is something that once they go in any landowner in the area can ask the Public Works Department to evaluate and determine if the street can be vacated. It's not a condition you can impose on this developer.

**JODIE NOVAK, SENIOR PLANNER**, stated that if any of the residents want to speak with one of the Staff members on their break or any resident can come in and contact them and they can give them a contact number to their traffic division. They can start the process to evaluate it. It will involve different divisions in public works.

**VICE CHAIRMAN IRBY** said he was thinking that the developer can initiate it to see if it can be done. Obviously, you can't force them to do it. If it can't be done, it can't be done. He hates to see these things just fall through the cracks.

**MOVED BY COMMISSIONER CREEDON**, seconded by **COMMISSIONER GULSVIG** with stipulations as read into record. The item passed 4-2 (Cason, Rivers opposed) and 1 abstention (Flanders).

**VICE CHAIRMAN IRBY** told the audience they were a recommending body to Council. This item will go to City Council April 24, 2008 and they can voice their comments and concerns. They will make the final decision.

- J. UP08-0004 ALMA SCHOOL PLACE ASSISTED LIVING FACILITY  
Request Use Permit approval to operate an Assisted Living Home for up to ten residents within an existing single-family home. The subject site is located at 451 W. Wildhorse Drive, west of the northwest corner of Arizona Avenue and Willis Road.
1. The assisted living home shall have no more than **six (6)** residents receiving care, and two live-in caregivers.
  2. Should the applicant sell the property, this Use Permit to operate an assisted living home shall be null and void.
  3. This Use Permit shall remain in effect for one (1) year from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require reapplication to and approval by the City of Chandler.
  - 4. No residents receiving care shall occupy the basement level.**

**MR. ERIK SWANSON**, City Planner, said the site, 451 W. Wildhorse Drive, is located west of the northwest corner of Arizona Avenue and Willis Road. The request is for a Use Permit for an assisted living facility for up to ten residents. This is a use that is allowed in single-family neighborhoods with a Use Permit granted by city council. The subject site has approximately six bedrooms. There is also a request to convert the family room into two additional bedrooms. There is a basement in this home as well.

The applicant has indicated that ultimately they would like to have a husband/wife caregiver team live downstairs in the basement, as well as an additional caregiver that would come to the site, but does not live at the residents. Eight residents would live on the first floor.

Mr. Swanson stated that there had been a lot of neighborhood opposition to this request. Staff received approximately 26 different e-mails from residents within the neighborhood, as well as additional telephone calls. They indicated their concerns with increased traffic, the use as a commercial use in a single-family neighborhood, potential

parking issues, and various other concerns that could have the potential to be associated with the assisted living facility.

**CHAIRMAN FLANDERS** asked if there were any questions for Mr. Swanson.

**COMMISSIONER CASON** had a question with regard to the other assisted living facility that was within 1,200 feet of this subject facility. He asked how that facility related to this subject facility.

**MR. SWANSON** said that when looking at assisted living homes, staff had two definitions. One definition of an assisted living home would be for one to five residents. In those situations this would be defined as 'families'. 'Family' is defined as one of the five individuals that are not related. The other definition is for a facility of six to ten residents, which requires a Use Permit. A Use Permit is not required for one to five residents, so there could be a number of these homes (1-5) within a neighborhood and not trigger any zoning action. If there were another assisted facility with six to ten residents within this neighborhood, there is a required 1,200 ft. separation. That is a state requirement.

In response to a question posed by Vice Chairman Irby, Mr. Swanson said that when this home was constructed, the homeowner and the developer had some sort of contract to include ramping for accessibility with the intention of opening up an assisted living facility. Mr. Swanson that it was his understanding that the owner had never used the home as an assisted living facility up to this point, nor had the home ever been lived in; the home had set vacant.

**CHAIRMAN FLANDERS** noted that the applicant requested that he speak after the residents had voiced their opinions.

**MR. BILL PONDROM, 554 W. REMINGTON**, stated that he lived in Alma School Place subdivision, which had approximately 140 homes that could reach \$50,000,000 in property value. He said that everyone did due diligence when they purchased their homes, based on what was represented to them at the time. However, since he had moved to the subdivision the zoning laws had changed dramatically around them. Now their neighborhood is surrounded by commercially zoned property. In this particular case, the neighborhood is being asked to accept commercial business in their neighborhood. He said there was no buffer, and that was the issue.

Mr. Pondrom went on to say that during the last commission meeting he had heard that there was a big concern in the master plan for Chandler regarding planning, protection of the neighborhood, integrity, and quality of life. He said that this was a chance for the city to protect what the homeowners had invested in, in this neighborhood. For this reason, Mr. Pondrom asked that this request not be approved. He asked that the private, residential nature of their neighborhood be maintained. He asked Commission to vote against the request.

**COMMISSIONER CREEDON** asked Mr. Pondrom how this use would impact his quality of life.

**MR. PONDROM** stated that this would be a commercial business right in the middle of their neighborhood. He said that that was not what they had bargained for. He said that when they moved to this subdivision they did so because they chose a family-oriented neighborhood, which is what they have right now. This, however, was not that – it was a commercial business. That is the opposition. He also stated that the opposition was much greater than what had been reflected in the staff report. He said that they could get a petition to show that there were over 100 people that were opposed to the request if that were necessary.

**COMMISSIONER CREEDON** stated that she was trying to get a grasp on how the commercial use would impact Mr. Pondrom and his quality of life in terms of the neighborhood. She asked if there were six elderly individuals in the home if it would have a negative impact on him.

**MR. PONDROM** said that it definitely would; his as well as others. There is a concern about traffic in general. That was being discounted by saying that the residents were elderly and wouldn't have a lot of visitation, but in fact, there is a facility in the neighborhood now, which generates a lot of traffic. Mr. Pondrom said that they live relatively close to one of the facilities (1-5 residents) and there was medical delivery at all hours. He said this was a valid issue.

**DR. MYRON HANSEN, 392 W. WILDHORSE DRIVE**, said that he was a podiatric physician and surgeon. He said he was very well aware of how these facilities work as he contracts with some of them. He said that he would explain how the facility would impact his own home.

He said that there are young families in their neighborhood. All the families had invested in a property that they believed would maintain its' value. They had invested in their homes before the bubble broke and they value what they have. He said there were 24 children that live on his street. The backyards are not large so they use the park two to three times per day.

Dr. Hansen again stated that he had 10 contracts with facilities that have 6-10 residents, and at no time had he ever been able to park at the home when he services the home. He said that he had to park one to two blocks away because there were always family members at the homes visiting. He said that there are grandchildren, family members, friends, or church members. On Sundays the elderly are not able to attend church so the church members bring the service to the family. In addition, there is entertainment such as storytellers, someone playing a guitar to entertain the residents, and other forms of entertainment. There is always medical staff as well at all hours of the day. He noted that Arbor Rose, another such facility, had to purchase the lot next to their facility to construct a parking lot.

Dr. Hansen explained that in some cases these patients have to be restrained in order for him to treat them. Some of them have significant wounds with a lot of infection. Dr. said that this kind of situation would greatly impact his life. In some instances, residents will escape out the door and take off down the street. He said that he did not want something like that to happen with his children playing in the yard. That was a big concern to him. He felt there were other neighborhoods where this facility could go. He said that he was greatly opposed to the request.

**COMMISSIONER RIVERS** inquired where Arbor Rose assisted living facility was located. Dr. Hansen responded that it was located in Mesa.

**MR. MICHAEL OSTERMEYER, 1361 S. CAMELLIA CT.** stated that he lived outside the 600-ft. notification area. He said that he was unaware of the request until one of his neighbors brought around a flier. He said that he was strongly opposed to the request. Mr. Ostermeyer said that he and his wife were one of the original residents in the community. When they bought their home they invested as a single resident of the community. Since he came home from his deployment he had spoken with Mr. Swanson about the request. He said that he was told that there were approximately four of these assisted living facilities that are 5 and under in their community at the present time in Alma School Place. This is on approximately 54 acres and 147 lots that are within the community at the present time. As a resident they have no control over that because the city automatically approves the facilities.

Mr. Ostermeyer said that he had other concerns, besides the concern with children in the area. He said that the traffic would increase. The residence is just down the street from a park, a park enjoyed by the children and other residents. The staff reports stated that the facility would provide care up to three levels of care. Mr. Ostermeyer stated that when they had purchased their home, they purchased it with the idea of taking care of the mothers. He said that their floor plan is the same as the subject site. It will not meet the requirements that they had for their mothers. They had to place his mother-in-law into a health facility to provide the three level care. He went on to say that the applicant also states that they want to increase the beds by using the family room. There are solid windows in this room with no escape route. All the bedrooms have an escape route other than the doorway. Mr. Ostermeyer also noted that the driveway would not accommodate three cars because the driveway on the subject site was shorter than his own driveway. The vehicles would actually extend out onto the sidewalk. It would decrease safety for the children in the neighborhood.

**MR. JOHN KARA, 432 W. WILDHORSE DRIVE,** said that he lives across the street from the proposed facility. He said that the great thing about the neighborhood is that it is somewhat closed in, it is a loop. There are two entrances and exits, and there was no other way to get into the neighborhood. The commercial development to the west has agreed not to continue the drive, which could possibly go into their community. There are no other ways for people to get in and out other than the two main entrances. Between the

entrances is the park. The entrance furthest to the east is where the proposed site is located. Twenty-six children live on that short strip of road. He said that because of the way the community is laid out, only the people that live there go through. Mr. Ostermeyer noted that the park is heavily used, and the assisted living facility would be right in the way of the park. He said they expect that there would be constant traffic coming and going, as well as parking in the street that would block visibility, restrict access, and present a great danger to the children. In addition there would be a lot of traffic, a lot of cars, emergency response, supply deliveries, removal of waste, and staff. He stated that they love elderly people, but felt there were a lot of other choices in which to place this facility. The investor has the luxury of choosing another place to go; however, the homeowners are already built.

**MR. LEE GLANVILLE, 351 W. WILDHORSE DRIVE**, stated that he was opposed to the Use Permit. He lives five houses down from the proposed site. He has two young sons that would walk by the facility on the way to park. He said that he worried about the traffic that the facility would generate. He felt that the value of his home would be hurt. Mr. Glanville stated that he was opposed to the request.

**MR. RICHARD HARRIES, 1423 S. NEBRASKA PLACE** said that his main concern regarded property values. He said that he and his wife said that a significant amount of their life savings was in their home. He said that this was their primary living house. When they signed up to purchase the home it was their belief that this community would be a family-oriented neighborhood, not one with commercial businesses. He said that one thing that really bothered him was the precedent that would be set by allowing this facility. He felt it would open the door for halfway houses and other commercial businesses. He had a concern with the traffic that would be generated due to supplies and visitors. It would have an impact on the neighborhood.

**MR. LUIS MUNOZ, 372 W. WILDHORSE DRIVE**, said that he was concerned as well with the value of his home should the facility be approved. As a real estate agent, he knew that the value of a home would go down with this type of facility next door. He said he would advise his customers to go elsewhere. Traffic was an issue as well. He felt with the number of residents the applicant wanted to have in the facility, it would be very tight. He felt there would not be enough parking spaces with this many residents. He stated that he was opposed to this request.

**COMMISSIONER CREEDON** asked Mr. Munoz what he was basing the property value reduction on. Mr. Munoz responded that the demand would not be there because of the assisted facility.

**COMMISSIONER CREEDON** asked how this was different from a home with teenagers. Mr. Munoz responded that there would be less traffic if teenagers lived in the home. The more the homes look alike the more they hold their value.

A speaker stated that nursing homes are made for durability with linoleum and low-end cabinetry. The existing homes in the neighborhood are constructed with value. This subject home set on the market for two years with many people looking at it, but no one wanted it because it was made with bottom end products. That decreased the value of the home, so when it sells at a lower value, it reflects on the value of the other homes in the neighborhood.

*There were additional speaker cards in which the individual did not wish to speak and were **OPPOSED** to the request:*

<i>Mr. Stan McKinney, 1410 S. Holguin Wy,</i>	<i><b>In Opposition</b></i>
<i>Ms. Rosemary Quon, 713 W. Remington Pl.</i>	<i><b>In Opposition</b></i>
<i>Ms. Carrie Paulus, 1349 S. Iowa Ct.</i>	<i><b>In Opposition</b></i>
<i>Mr. Ron Nikolaus, 492 W. Wildhorse Dr.</i>	<i><b>In Opposition</b></i>
<i>Ms. Danna Buggie, 534 W. Remington Dr.</i>	<i><b>In Opposition</b></i>
<i>Ms. Jean Pondrom, 554 W. Remington Dr.</i>	<i><b>In Opposition</b></i>
<i>Ms. Holly Harries, 1423 S. Nebraska Pl.</i>	<i><b>In Opposition</b></i>

**MR. MARK LAZOVICH, 451 W. WILDHORSE DRIVE, (APPLICANT)**, stated that his interest in starting up an assisted living facility began when his own mother was hospitalized and then moved into an assisted living facility. He said that he respectfully disagree with Mr. Kara about doing due diligence as he had done nothing but that. He has attended a seminar twice, and has read all the state requirements pertaining to an assisted living facility. Mr. Lazovich stated that the home meets or exceeds all minimum requirements for everything. He said that he had multiple conversations with Mr. Swanson before he closed on the house. When he received the CC&Rs from the HOA he read them and called a representative from the community before he closed on the house. Mr. Lazovich asked the representative to interpret some of the language within the CC&Rs referencing the use of only 25% of the house. He was told by the representative that it was a matter of interpretation whether they are using 25% of the house more or less or not. The representative said that he would e-mail the Board and ask what their thoughts were. In turn, someone on the Board (who is a realtor) e-mailed to seek further opinion about this. Mr. Lazovich stated that he was informed that he was well within his rights to do this. He stated that it was his belief that he had done nothing but due diligence in checking into the requirements, etc. He went on to say that he had spoken to Mr. Swanson several times to make sure that all these things were okay to do.

Mr. Lazovich stated that it appeared that one of the biggest concerns was with regard to traffic. He said that he couldn't make the argument that there wouldn't be an increase in traffic. The residents would not be driving. He stated that he had never been to the assisted living home where his mother lives that he couldn't park in the driveway. The traffic will depend on the makeup of the residents.

With regard to the commercial use aspect, Mr. Lazovich stated that this is provided for and protected by the Fair Housing Law. It has been argued, and the court has upheld, that this is not a business. It is considered as each individual's home and personal residence.

They live together as a family, and they are given more allowance and more consideration to have the right to integrate into the family and a normal neighborhood. There is a 'reasonable accommodation' provision that exists under that.

Regarding home values, Mr. Lazovich said that is perhaps a nice theory, but did not feel there was any proof that having an assisted living facility lowers the value in the neighborhood. He said that if it were done correctly, the facility would be the least conspicuous home in the neighborhood. It is true that there would be deliveries and perhaps emergency vehicles.

Mr. Lazovich also noted that he was well aware that the family room windows were solid and that they would need to be changed out. That area would be modified to add the rooms. The square footage and space requirements are all the parameters put forth by the state of Arizona; this home meets all the requirements.

He went on to say that he cautions Mr. Munoz that he shouldn't tell prospective buyers that there is an assisted living home in his neighborhood. That could potentially hurt their values. Someone brought up at the neighborhood meeting that if he had known there was a facility in the neighborhood, he would not have bought there. The truth is he is not allowed to know because it is protected by Fair Housing. If, through his own due diligence, he found out there was a facility in the neighborhood, then that is all within his rights. The seller is not required to disclose that information on the Disclosure form. Mr. Lazovich added that the home meets all the requirements, and the people living there never would have cars.

With regard to comments made during study session, Mr. Lazovich noted that Commissioner Cason commented about how often something comes before him where at first application someone tries to hit the whole enchilada. There are approximately 70 or 80 assisted living homes in the city of Chandler, but of those, there are only about six homes that are approved for over five residents. There are many others throughout the Valley. Mr. Lazovich noted that the house is run and operated by the manager, who has to be certified by the state and has to meet a number of requirements themselves. Policies and procedures are written. Most all responsibilities fall on the manager. Mr. Lazovich commented that he has not decided as yet if he would live in the home. He said that whether he lives there or not, he would definitely be there many more hours than anyone works at their job, every single week. He said that the home is very dear to him; everyone's parents are dear to them. He wants to personally and frequently oversee what is happening with his mother.

Mr. Lazovich went on to say that the question about space has come up many times. Mr. Swanson said that it was not only a concern with staff, but also with Commission and Council. He said that this home was purchased with space in mind, the number of square feet and the spaciousness. He reminded Commission that previously in January two different homes were recommended for approval with much less space than his. One of the homes is less than half the size of his own proposed facility. However, one of the

aspects is not space, its economics. For every retired who has a nice retirement and pension, there are five to ten folks who do not. They have issues, 'how am I going to make it' issues, 'where am I going to live', 'what am I going to do' issues. Mr. Lazovich stated that the space requirement is less of an issue than one might think. Their biggest question is, "where can my loved one get the best care?" Mr. Lazovich said that that person is entitled to any less great care or entitled to any less than the gold standard of care because they can't afford to rent a room by themselves.

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

**VICE CHAIRMAN IRBY** asked the applicant how he knows if he can run a facility of this type. He said that a lot of the facilities are approved based on the user's experience.

**MR. LAZOVICH** responded that his manager does have the experience. She is the one who is by all the state requirements and by state definition who the responsibility rests on. His manager has been a certified manager in the state for about five years with prior experience in the state of Florida. There are a number of recommendations and referral letters that people have sent that have been submitted to Mr. Swanson. The manager is presently working for a company that operates 13 care homes, and she is their General Manager. He went on to explain the different levels of care.

**VICE CHAIRMAN IRBY** then went on to ask staff about the definition of 'family'.

**MR. SWANSON** explained that in some instances the owner and applicant live in the home; with others they don't. It is a mix. The 'family', depending on the numbers, counts as one person towards the overall group of five. So you have that family and then they get a Use Permit for the additional four people.

**VICE CHAIRMAN IRBY** said that by right someone does not have to physically live there as a full time caretaker.

**MR. SWANSON** stated that the owner does not necessarily have to live there.

**VICE CHAIRMAN IRBY** said that there are always concerns with traffic. He said that he has always had a problem with visitors and parking at such times as holidays. He said that he would hope that the family is visiting mom or dad. However, this creates a lot of traffic. He said that he hadn't really considered the fact that there would be deliveries such as medical supplies and oxygen, which adds to the traffic flow. He asked the applicant to explain what kind of deliveries one should expect for such a facility.

**MS. BARBARA GJONBALAJ, 572 N. KIMBERLY WAY, CHANDLER** stated that she had been a licensed manager for the state of Arizona for the past five years. Presently she is managing two facilities, and she is the General Manager overseeing 13 homes. With this particular subject home there would be 10 residents. For those residents with breathing issues, there might be a delivery of breathing concentrators. She stated there

would not be special deliveries and pick-ups for waste. Some residents prefer to visit their own doctors, and the doctor would not be visiting them. For those that do want their doctors to visit them, it would not be every day. As far as family visiting, there are visiting hours; however, if someone wanted to see their parent, they can't tell them they couldn't. In response to a question from she explained that one of the homes is licensed for nine, one is licensed for seven, and the rest of the homes are licensed for five residents. She said that there had never been any complaints from the neighbors or neighborhood about traffic or deliveries.

**VICE CHAIRMAN IRBY** stated that this is a necessary function in any community. He said that it was just a matter of track record and that he had a hard time approving ten at first. That is why Commission limits the Use Permit to only one year in order to see how the operation is going and see what the impacts have been on the neighborhood. If that is okay and the need is there, the Use Permit is increased for a longer time period. He said that he was still on the fence on whether he agreed with the request. He said that he wasn't totally against nor was he totally for it. He said that he would not agree to ten occupants initially.

**COMMISSIONER GULSVIG** stated that he had a concern that under the office of assisted living licenses that regulates adult daycare centers statewide it defines assisted living facilities as being under supervisory care, personal care, or direct care on a continuing basis. He asked Ms. Gjonbalaj that if she were the general manager for so many homes, how she would be able to care for the residents on a continuing basis.

*Ms. Gjonbalaj replied (inaudible).*

**MR. LAZOVICH** explained that his facility would have three caregivers during the day and two caregivers during the night; 24-hr care, seven days per week.

**COMMISSIONER GULSVIG** stated that he is hard on the number of residents per household. He said he understood that the applicant had a right to have five people living in the facility. Commissioner Gulsvig said that he would want only six residents with a one-year time limitation. He felt that the home would be a bit tight with more than six residents.

**MR. LAZOVICH** clarified with Commissioner Gulsvig that there could be an additional two caregivers for a total of eight people. Commissioner Gulsvig stated that that was correct.

**COMMISSIONER GULSVIG** stated that the applicant had to provide 24/7 care for the residents. He said that he believed there would probably be mixed care requirements. As the population continues to get older there would be more demand for these type facilities. However, from a Use Permit standpoint, Commission had to be sure that this facility is integrated in a compatible basis in the neighborhood so that it doesn't deteriorate the existing homes' property values.

**MR. LAZOVICH** commented that since the neighborhood meeting it has felt like what he would imagine it feels like being on trial. There were three people at the neighborhood meeting who were quite adversarial. He said that he had been put back on his heels as he didn't know how to receive that or how to respond to that. He said that he had no issue with them expressing their concerns. He said that on the neighborhood notice he had included his phone number so the neighbors could call him at any time.

**COMMISSIONER RIVERS** asked if there were any hazardous materials at the facility.

**MS. GJONBALAJ** responded that if there were a diabetic patient there would be a red container that could be taken to any hospital for disposal.

**COMMISSIONER RIVERS** said that he wanted to thank the doctor who had spoken as it had given him a greater education about these facilities and what really happens there. He also thanked Commissioner Gulsvig as he felt that he had the solution to this matter. If the facility had five residents there would be no issue. With six residents a Use Permit is needed. Commissioner Rivers said that a one-year stipulation would show the neighbors that the applicant can or cannot do what he says he would do with the facility.

**COMMISSIONER CREEDON** said that she agreed with Commissioner Gulsvig and thought limiting the facility to six residents was the way to go. She encouraged the applicant to work with the neighbors regarding the traffic concerns.

**MR. LAZOVICH** commented that he had attended the HOA Board of Directors meeting and spoke directly with them as well. He said that it was in his best interest to be the most conspicuous neighbor on the block, have the neatest yard and pay his HOA dues on time.

**COMMISSIONER GULSVIG** reminded the applicant that the Commission was only concerned with the land use pertaining to this case. Any issue between the applicant and the HOA was strictly between them. Commission could not take that into consideration because that was a civil issue. The applicant stated that he understood that.

**CHAIRMAN FLANDERS** again asked if there was anyone in the audience that had not already spoken, care to speak.

A speaker came forward, although he had spoken prior, said that due diligence was more than researching what the law allows. It would also include knowing that a Use Permit has to be had, and it was the neighbor's opportunity to speak about that and to have their concerns weighed against that. He said that if the primary concern was caring for a family member, that could be easily accomplished with five or less and it would be no problem. The speaker said that the neighbors are forced to worry about the worst-case scenario. He said that they want to have people there providing full time care, but if not, there then would be shifts coming and going providing more traffic and hazardous conditions for children. The fact that the applicant can go up to ten residents drives home the fact that it

is to the applicant's advantage to go to ten. The first couple of people would pay the overhead, and every other resident he can place in the facility drives up the profit. That fact tells the neighbors that it's not just about providing a care facility; it's about making a profit. This speaker stated that he was very concerned about giving a one-year permit because it is going to present all the problems. He said that intentions and promises were one thing, and what the law allows was another.

**COMMISSIONER GULSVIG** stated that there had been no conversation about approving 10 residents.

The speaker stated that he understood that, but he would rather see the Use Permit denied and allow only five residents. It was the speaker's fear that once the applicant passes the first year with six residents, then they would go to ten residents. He said that he understood that if there were five or fewer residents there would be nothing they could do about it; however, this was a request for more than five and the neighbors could do something about it, and that was the reason why they were in attendance.

Another speaker came forward for further clarification and comments regarding numbers and trash.

**COMMISSIONER RIVERS** said that each household could have two trashcans. He explained that for a nominal fee the city of Chandler would provide an extra trash container. He said that he was two trashcans himself.

**CHAIRMAN FLANDERS** closed the floor for discussion and motion.

**MOTION BY VICE CHAIRMAN IRBY**, seconded by **COMMISSIONER GULSVIG**, to approve UP08-0004 ALMA SCHOOL PLACE ASSISTED LIVING FACILITY for six residents and no more than two caretakers for a period of one year, as well as an additional stipulation that residents are limited to reside on the ground level floor only.

**VICE CHAIRMAN IRBY** pointed out to the audience that the Use Permit is for one year. The applicant would have to come back in one year and ask for a renewal. At that time the Commission has the ability to renew the permit. This is the opportunity for the applicant to prove themselves. He said that to get more than five residents, the applicant would have to earn it. If the applicant were not able to operate well with six residents then they would only be allowed five residents.

**COMMISSIONER RIVERS** stated that he agreed with Commissioners Irby and Gulsvig. With allowing only six residents, the Commission has control. The applicant is made to come back in one year and prove or disprove whether the applicant is going to do this right or not. If Commission were to let the use go with five residents there would be nothing the Commission could do if the neighbors got upset.

**COMMISSIONER CASON** said that he always supports the assisted living facilities. His biggest concern with this home was the size of the frontage and the amount of parking that would be available. He felt the applicant should have selected a home on a corner so that when deliveries come it would not encumber upon the neighbors' driveway. He stated that he was voting in opposition to this request. He said that he hopes that the applicant is cognizant of his neighbor's needs in making sure that he doesn't encumber upon their property and that anyone who comes to the facility will park in the applicant's driveway.

**CHAIRMAN FLANDERS** asked Mr. Swanson to review any modified stipulations.

**MR. SWANSON** stated that condition no. 1 would read:

*The assisted living home shall be limited to six residents receiving care and two live-in caregivers.*

Condition nos. 2 and 3 will remain the same.

Condition no. 4 shall read:

*No residents receiving care shall occupy the basement level.*

**CHAIRMAN FLANDERS** stated that the floor plan did not provide the stairway location. He asked the applicant to provide that to staff for the file.

When the vote was taken there were 6 in Favor and 1 Opposed (Cason). Motion passed.

**CHAIRMAN FLANDERS** stated to the audience that the Planning Commission was a recommending body to the City Council. This case will go to the April 24<sup>th</sup> City Council meeting.

C. DVR07-0058 RED ROCK BUSINESS PLAZA

Request rezoning from Planned Area Development (PAD) to Planned Area Development (PAD) Amended to expand the list of permitted uses within a 14-acre business park located at the northeast corner of Wright Drive and Germann Road (approximately ¼ mile east of the northeast corner of Cooper and Germann Roads).

**MR. BILL DERMODY, SENIOR CITY PLANNER**, stated this case is a request to add to the list of permitted uses in an industrial/office/showroom building. The property is located east of the northeast corner of Cooper and Germann, within the Chandler Airport Center. It's part of the much larger, 245-acre Chandler Airport Center that received PAD zoning a few years ago. Almost the entire park, on both sides of Cooper and north of Germann, up to the 202 plus a little south of Germann, received office/industrial and showroom zoning. The strip right along Cooper received zoning, which includes retail, gas station, hotel and assembly uses. The PDP was approved for Red Rock Business Plaza last year. That approval included a 3-building development on 14 acres, with the office and showroom component being capped at 50% of each building for parking reasons. At least 50% of each building will be industrial or warehouse. The application before the Commission is to add public assembly uses to the list of permitted uses. Up to half of each building could be for these uses. There is only one user identified at this time, which would occupy approximately one-fifth of one of the buildings. That user is 'Bounce Jungle.' They hold children's birthday parties. It's something staff would like to see in Chandler, however, don't agree on the location. Other types of public assembly uses could include dance schools, gymnastics, music lessons, etc. (Mr. Dermody displayed the site plan for Red Rock Business Plaza and pointed out where Bounce Jungle would be located.) A parking study was received by staff just recently and has been briefly reviewed. Staff has found the study to be inadequate to accompany this request. The study was only done over a 2-day period, a Tuesday and a Saturday. Staff doesn't feel that is enough information to properly analyze what is going on in the area. Also, the study was tailored for there only being one user. Up to half of these buildings could become public assembly so the study would need to be tailored accordingly. The two days chosen for the study happened to be during spring break that also could have affected the results. Because of these reasons, staff feels the most appropriate action tonight is a 2 to 4 week continuance to allow review of a proper parking study. It is staff's understanding the applicant doesn't want a continuance and would like to go forward this evening. In lieu of a continuance, staff recommends denial of the request. Staff has a number of concerns with this project, the main concern being a fundamental land use conflict. Staff does not feel it is appropriate to have I-1 and warehouse type uses, with hazardous materials and heavy truck traffic, to be located immediately adjacent to public assembly uses with gymnastics schools, Bounce Jungle, and those types of uses. The two types of uses are not compatible. Referring to the site plan, Mr. Dermody pointed out where the truck traffic will enter the center and where the truck bays are located. There is potential for trucks to be driving right by where children are waiting to be picked up. This center has already been built,

which is further complicating the fundamental land use problems. It's multi-tenant buildings, which are difficult to separate. It's not possible to create the type of safe environment for children that could be achieved on another site. Warner Commerce Plaza came before the Commission a few months ago, which is an example of a site that could work for this type of use. They started construction approvals before they realized they would like the public assembly type uses also. They designated three buildings for assembly type uses. Truck traffic was in back and completely separated from the pick-up/drop-off areas of the assembly uses. Hazardous materials were also restricted. That's what staff considers a safe environment for public assembly uses. In the current request, it's not possible because of the way the center has developed. Secondary to the fundamental land use conflict, staff also has concerns with the parking. The current traffic study is flawed and the applicant will speak about that. Staff doesn't feel it's appropriate to make a decision based on the study because of the flaws. The concern revolves around the high-impact, peak times for these public assembly uses; after school and weekends primarily. If up to half of each building has the public assembly uses, there would be a lot of surges in the demand for parking happening at the same time. Staff needs to understand how that's going to work. There are other options for this project. In the Airpark Area Plan there is a 20-acre parcel at the SEC of McQueen and Germann that is designated for special use commercial. It's currently vacant and would be a good potential home for this type of use. Also, Tumbleweed Park at the SWC of the same intersection has a corner that could be developed and has not been designated for any particular park use. The City's Parks Department is potentially looking for a use such as this. There are also many retail centers throughout the City where this type of use and the amount of traffic would fit right in. The applicant is looking for a space with very tall, clear heights; however, just because they have had difficulty finding an existing building that fits their needs, doesn't make the land use conflicts on this site go away. Staff would like to see this project on a site where it can be properly designed with a safe pick-up and drop-off area; well defined, well-lit, and doesn't have truck traffic. There is also the potential in other situations to limit the hazardous materials, which can't be done effectively at this location. Staff recommends a continuance this evening, however, if that isn't the judgment of the Commission, then staff recommends denial of this request.

**COMMISSIONER CREEDON** stated this request is problematic for her in many ways, purely based on the use. She asked for Chris Mackay to give the Commission a brief analysis of Economic Development's perspective on this use.

**MS. CHRIS MACKAY, SENIOR ECONOMIC DEVELOPMENT SPECIALIST,** stated Economic Development staff has looked at this project. This is only the second time in 10 years that they have disagreed with Planning & Zoning's analysis, purely from an Economic Development point. When Economic Development looks at a request, they look more for a quality of life. They look for locations where there is opportunity for recreational sports; rock climbing walls, bounce jungles, birthday party locations, etc. The types of places people are looking for to put their children. They've all sat in Council Chambers over and over again for many years, listening to people looking for a location buried in an industrial park. Rightly so, Commission and Council recommend

denial of these requests. They then turn to Economic Development and ask them to assist the applicant with finding a suitable location. That always presents a great challenge. For Economic Development staff, this request made sense. They absolutely agree that children don't belong in a business park and shouldn't be around 18-wheel trucks. However, in this case, it's just one parcel away from Crossroads Towne Center, which is a major retail center. It has frontage on Germann Road and is completely segregated from the rest of the business park by public streets. In working with the developer, the project was originally designed more for showroom industrial; plantation shutters, custom BBQ manufacturing, tile, silk florals, etc. Economic Development worked with the developer to find a location to put those showroom uses. Staff hears from citizens and different Boards and Commissions all the time that they would like the Chandler Airpark to develop similarly to the Scottsdale Airpark. Showroom and light manufacturing uses are a great portion of what is there. But there is also a number of recreational retail dispersed throughout. It gives Chandler the opportunity to put those types of uses in. Mr. Dermody addressed two great locations for these uses, which is at McQueen and Germann. One is a 40-acre site at the SEC. Staff has been trying to have someone get a hold of that site for more than 10 years. It's a 40-acre site so it would have to be a pretty big developer, with a big project, since it focuses specifically on specialty retail. On the SWC, the park site, there have been several RFP's to create some type of an opportunity there. There's one in now that focuses more on inline retail. Economic Development's challenge is that it's in an area that's building out, which doesn't make them in any hurry. It's an area where it will probably be a minimum of 3 to 5 years before any of the specialty commercial retail at the corner is available for these types of uses. East of Gilbert Road, in Gilbert, there is property ready to go for these types of uses. It's her understanding Gilbert doesn't have the same requirements that Chandler has. They allow recreational retail uses to go into some of their more general industrial areas. Some of Economic Development's fear is that we're beginning to lose these recreational retail opportunities to Gilbert. Economic Development staff would like to create an opportunity to locate these uses, they'd like to create an opportunity for the workforce, for the people in the area, to have somewhere to go. Right now the focus is on kid's opportunities because that's the request before the Commission, but the way Economic Development looks at it, maybe it's a place where you get bicycles and ride on the Paseo. It's grown-up activities also. As music academy's come to them, and they can't go in an industrial park or an industrial bay, they need a place to take them to. Someplace where Chandler can be a community for all people as opposed to saying you can't go here or here, but maybe we can put you in another place. Mr. Dermody is correct in saying the best case would be to design the project from the ground up. They've been trying to do that, but still haven't had the opportunity. Chandler is losing a number of these types of recreational opportunities. Out of all the proposals they've seen, this one seemed like the most logical built opportunity. From an attraction and location standpoint, this is an outstanding location for visibility and access to retail.

**COMMISSIONER CREEDON** stated that makes her think about it in a broader term. She thought about some of the recreational uses her son utilizes in Gilbert and how they

would be a good fit for this area. She is still concerned with the parking but appreciates Ms. Mackay's comments.

**CHAIRMAN FLANDERS** asked Ms. Mackay if she thinks this would impact the industrial employment base in the area. Ms. Mackey responded this area would develop with just over 27,000,000 sq. feet in nonresidential uses; which is the retail, office and industrial. This project is approximately 135,000 sq. feet. From the standpoint of how much is it going to take out of the employment base, she feels it's a good fit. It doesn't really lend to just give it up all around it, because it's segregated. It's separated by the surrounding streets. The natural fear is if we let this one happen, it will happen all around it. She feels this project provides a unique opportunity that allows them to separate the industrial uses and still protect the employment; while still providing amenities for the area. Not just for the 9 sq. mile Airpark area, but for the whole southeast valley area. They're not large capital investment generators and they're not large job generators. This project is already in for around \$25,000,000 from a capital investment standpoint. The users coming in would never come near that. However, they could provide a great opportunity for after school jobs and some other types of jobs, just not the type of jobs that would fit in a typical category.

**COMMISSIONER GULSVIG** asked Ms. Mackay if there are other type businesses queued up that could possibly move into the same type of facility. He is currently working in the Scottsdale Airpark and he sees store frontages and buildings being used all the way from lunch shops to churches to bible studies to rock places. They have it all. Ms. Mackey responded Scottsdale Airpark is one of the true master-planned areas of the entire valley. What she sees coming into this area might be a little more recreational/retail. It might be a cheerleading school; they need the 20-foot clears to be able to do their routines. It might be a dive school or swim school. They work with a lot of scuba places looking for locations and have nowhere to go. It might be a custom BBQ place where the customer comes in and picks out the components they want. There could possibly be a small café that services the area. It's her understanding from the previous zoning case that I-1 uses can go in this center by right. This is very expensive space. It's not the typical project she works with when she's locating I-1 users. Typically, in an I-1 use, she's looking at 60 cents to 95 cents. This space is more like \$1.35. It's quasi-retail in its price in order to pay for the beautiful frontage, which the City encouraged them to build to attract showroom/industrial users. So, I-1 users can go in by right, but those type of users aren't usually interested in paying that much money. There are a lot of other buildings around there that are more in their price range.

**COMMISSIONER GULSVIG** stated if he had to pay that much for a shop in Phoenix, it wouldn't have gone in. He can't afford that much for industrial space.

**COMMISSIONER CREEDON** asked if the City's requirements impacted the overall cost of the space. Ms. Mackay responded the developer originally came forward with a pretty close model of what they ended up with. Mr. Dermody added that was correct. The project was quality when it came in and staff just fine-tuned it. It got approved and

was built pretty much as shown. Ms. Mackay stated the developer really listened to Economic Development as far as what was already going in that area and the one gap that was missing; the showroom, flashy type space. It is a beautiful project.

**COMMISSIONER CASON** asked staff if he heard correctly that there is a development on the corner of Cooper and Germann that would accept this use. Mr. Dermody responded along both sides of Cooper there is a zoning district that would allow this type of use. **COMMISSIONER CASON** asked staff if the NEC of Cooper and Germann is currently being developed. Mr. Dermody responded the exact corner of Cooper and Germann is not, but just east of the corner Panattoni Business Park is being developed. There has not been a Preliminary Development Plan approved yet that is right on Cooper, other than the business park. Nothing has come through with retail or assembly uses. **COMMISSIONER CASON** asked if Panattoni was a retail/assembly use. Mr. Dermody responded no, it is the same as Red Rock Business Park.

**MS. JODIE NOVAK, SENIOR CITY PLANNER**, clarified that Panattoni, Red Rock and Hewson are all I-1 light industrial uses. However, northbound on Cooper, close to the Yeager/Northrup intersection, on either side, there is a strip that was land use planned. Red Rock and all the other business parks are part of the overall Chandler Airport Center master planned development. In the master planned development, it was designated which parcels would have light industry, which would have office showroom, and which ones would have commercial. The commercial is fronted right along Cooper Road. An application has been filed for another recreational/retail type use which will come before Planning Commission, and is locating into that retail zone which is exactly what is being proposed with this project. The retail zone is the most appropriate location for these type uses, not in the parcels that have been predetermined as light industrial. This is consistent with all the other business parks, old and new, throughout Chandler.

**COMMISSIONER CASON** asked staff if there is currently an application with the City for construction on Cooper north of Germann that would accept this type of use. Ms. Novak responded not for construction; there is a zoning application filed for development plan approval for a parcel in the commercial designation that has another recreational activity use in it.

**COMMISSIONER GULSVIG** asked how long it would be before the facility was built and could accept this type of use. Ms. Novak responded it is a zoning case, it would have to go through the zoning approval process and then eventually into construction plan review. It would probably be a year or less. There are other locations in the City that have PAD overlays already approved that allow for churches, childcare, gymnasiums, etc. She previously worked with the Bounce Jungle user for almost 2 years and found a prime location in west Chandler. That location met all the criteria being talked about tonight; it abutted a PAD overlay area that already had similar individual uses. Unfortunately, in the end the property management company chose not to lease to them. That's when the applicant started looking at this site.

**MR. DERMODY** added the other case staff is working with on Cooper has another user already. So it wouldn't be a possibility for this applicant to go in that building.

**MR. STEPHEN EARL, 3101 N. CENTRAL AVE., #1000, PHOENIX, ARIZONA** representing the applicant distributed handouts to the Commissioners and stated they are the same exhibits he will be displaying on the overhead. He stated he appreciates staffs' position. He has read the staff report carefully and understands their concerns. This is the paradigm that has been used for business parks; that business uses and light industrial don't mix with a family, recreational type of use. This is a hybrid use, it hasn't been around for very long. If it went easily into retail, it would already be there. There are 2 or 3 reasons why it doesn't go easily into retail frontages. First, the recreational uses need higher clear heights inside than most retail storefronts have. They need 18 feet and most storefronts have 10 feet. Secondly, the retail storefronts require around \$3 per sq. ft. in rent. As Ms. Mackay stated, Red Rock is a very high-end business park that will have rents in the \$1.30 up to \$2 per sq. ft. Jumping to \$3 per sq. ft. is a big difference. But it's a whole lot different than light industrial users that are down below \$1.00. This is not a standard business park. It's not going to have the standard light industrial uses with a lot of truck traffic. This project doesn't have any dock-high loading. It has only the roll-up doors with standard delivery trucks. Another reason the recreational uses don't work well in retail centers is because of parking. Staff feels parking is a big problem in a business park. The peak for these types of uses is a Friday evening, Saturday and Sunday. In preparation for this meeting he drove through a lot of business parks in Chandler and Tempe. During the day there is a lot of cars parked. He drove through Stellar Airpark and looked at the mortgage company and the showrooms. Obviously, there were a lot of cars parked there. Then he went through the very same park in the evening and on a Saturday, and it was hard to find any cars parked there. So the two uses actually work well together. He knows staff is concerned they didn't do enough on the traffic study, but they were trying to look at other similar facilities to see what kind of parking environments are there. What they discovered is the showroom use is really more of a weekday use, it's not a weekend or evening use. Whereas, this type of use is. When he moved to the valley in 1976, in northwest Tempe, there was no such thing as a business park. It was black and white. Industry went in one place, commercial in another, and residential in another. When business parks first started going in, they were told it would be a great use for the neighborhoods because the uses are basically daytime uses, only one story, and the kind of users are good neighbors. In fact, his family used to take bike rides through the business park on weekends because there was no one there. Five years ago the Bounce Jungle type uses didn't exist. Now we have the high-end business parks to put the real nice uses, and we ask where does this new hybrid use go. It doesn't go well in retail because of the parking. Commercial centers have 18-wheelers going into the back. However, the use characteristics of this use is that when it's got kids there, there isn't truck traffic. Those trucks are coming during the day when there aren't any kids there. Staff feels the traffic study should have been at another time besides spring break. He feels opposite. Spring break is a time when families are home and looking for things to do. This type of a family use is where families come over and are inside of the facility for a certain amount of time. They're all inside the building.

Staff is concerned there are going to be kids running around and getting where the trucks are. The trucks aren't there when the kids are there, and the kids are all confined inside. The reason they're in a business park is because there isn't other attractive things in the business park. A retail center might have other uses they would be attracted to. In a business park, they're completely inside the building. There is a bounce area and an area where they can have cake and ice cream. They're all controlled inside. They don't come one child per car. That's why there aren't as many cars. The study shows during the week there is one space per thousand and during the weekends there is 2.8 spaces per thousand. At this particular site there are several neighborhoods that are part of the overall area. But, as Ms. Mackay pointed out, there is 27,000,000 sq. ft. of non-residential uses including everything from the true light industrial to the business parks. This project alone has neighborhoods to the north, east, south and west. This particular site is a little unusual because it has streets that separate it even from the two projects east and west of it. They particularly like the fact that Yeager Drive goes right over to Cooper, and Cooper goes into the neighborhoods. You can actually get to this particular site, which is in the back along the Yeager frontage, from Cooper. They don't have to pay the rents the users in the front buildings along Germann Road have to pay. They can do very well in the back. The building is 134,000 sq. ft. This use is 9,800 sq. ft. He is aware staff says it could be as much 50% for these buildings. They are willing to agree they won't have more 25%. They only have the one user right now. This is one project that has 3 buildings. They can say it wouldn't be more than 25% of the total. Besides the parking shown on the site plan, there is room in the back where parking has not been shown because of roll-up doors. Roll-up doors could be eliminated to create a number of additional parking spaces in the back. Every city has had to deal with this problem. This is not unique to Chandler. These uses are new. Where do they go and how do other cities deal with them. He decided to find out where other ones are located. There is one called 'Bounce University' in an industrial park next to Falcon Field. It works very well. A lot has been said about Scottsdale Airpark, which is enormous. If this area is 28,000,000 sq. ft., the Scottsdale Airpark area has to be 40 to 50 million sq. ft. of businesses. There are several of these uses in the Scottsdale Airpark area. Two in question are in McDowell Mountain Ranch, east and north of the runway. One is called 'Pump It Up' and the other is 'Bounce University.' They are in a business park environment in the exact same zoning category as the case tonight. Scottsdale felt it was appropriate there because of the hybrid nature of the use. Phoenix doesn't have a PAD ordinance, so theirs is zoned A-1 in the Deer Valley Airport area. It's part of the series of multi-tenant buildings and has an attractive location that works very well. With the Red Rock project he understands he is asking to open up the perspective because normally these uses don't mix, but this use wasn't around 5 years ago. Business parks just came up around 20 years ago. 4 or 5 years ago showrooms weren't allowed in business parks because it was felt putting retail with a business environment was inconsistent. It turns out they work well together. Other cities have dealt with this same issue and feel this works together very well because of the different characteristics of the uses. He feels if they don't have any more than 25% of this type of use, it would dovetail very well with the other users. Because it wouldn't be along the Germann frontage, it would also work out well for the applicant in terms of rent not being at the high end. That's why the

operators of the facility would like to be at this location. When these type facilities are operating, there is hardly anyone else in the business park because they operate in the evenings and weekends when hardly anyone else is there. There is an opportunity to have a family-oriented business in an environment that works; making use of a park when it's otherwise not being utilized much. Should there be a lot of these in one park? No. Is it good to approve these in all business parks? No. Is this particular business park a good fit? They think it is. He hopes he has provided enough information to Commission that they can feel comfortable with this specific request at this location. He is aware staff wants to continue the case because of the parking study. They have studied three facilities in two different environments, weekday and weekend. The operators have been looking for a long time to get the right fit. This seems like a good fit.

**COMMISSIONER CASON** asked Mr. Earl why they have chosen to place the tenant in that particular section of Building 1 instead of the northeast wing of Building 3, where it seems like the parking is more compatible to the use. **MR. EARL** responded the project owners are building out tenant space in order to have space for people to move into. The facility operators, the Sunshines, like this location the best because, not only could they park their own vehicles in the back, but they also have a lot of other conveniently located parking. One of the misconceptions is that every child has a car connected to him or her. Most of the people come in a few cars and are picked up or dropped off. By being on the end, conveniently located to the driveway, off of Yeager, seemed like a perfect fit.

**MR. PAUL CATE, MARK IV CAPITAL, 100 BAYVIEW CIRCLE, NEWPORT BEACH, CA** stated Building 1 has an 18-foot clear height and the other two buildings have 16-foot clear heights. This tenant needed 9,800 sq. ft. and this was the only location that would provide that.

**COMMISSIONER RIVERS** confirmed with Mr. Earl that they are willing to stipulate only 25% of this project will be for this type of use and asked if this development had 25% of this type of use in it, would it be all of Building 1 or would some of them be in the 16-ft. height buildings. Since the placement of this project gives them all the corner parking, that couldn't be done more than one more time. Mr. Earl responded he asked the owners that question and determined this building has the 18-ft. clear heights and some of the users do require the additional clear height inside the buildings. Users only needing 16-ft. they would try to locate them in that area. Users needing more, end caps are better. They can clearly define the wall between that tenant and any other tenant in the building. For this particular tenant, they are putting in a noise barrier between their use and the use next door. There are potentially 50 tenants in the three buildings; they don't anticipate more than 5 of those tenants having this type of assembly use. That's why they said 25% total. They wouldn't all necessarily go in this building, but they would go in locations where they could be properly sectioned off and an appropriate environment created for them. **COMMISSIONER RIVERS** stated he could understand that not all uses need an 18- or 20-foot ceiling, but from his perspective all of this type of business may need all those parking places that have been pointed out. If, for example, you put the end cap of building 3 right across the parking aisle from this proposal, they

couldn't use their own corner parking places if Bounce Jungle is using them. Mr. Earl responded he didn't mean to suggest that these uses require an enormous amount of parking. However, staff has suggested there is a conflict between uses because they think this kind of use will consume a lot of parking. His experience is that the peak period for these uses is opposite the peak period for the other business park uses. **COMMISSIONER RIVERS** asked how many parking places Bounce Jungle would need on a Saturday. Mr. Earl responded their parking study tried to look at these facilities in a weekend environment. The most required in the study was a little over 3. All 3 of the facilities together were 2.78. Currently in the project, there is 3.7 spaces per thousand. If some of the doors in the back are taken out, they could get as high as 4.7 spaces per thousand. There is a lot of parking in this project. That's one of the benefits of an upper level style business park. Obviously, if 50% or 70% of the park had this type of use, there would be an overlap.

**VICE CHAIRMAN IRBY** stated he agrees it's a new type function. He remembers a batting school and an acting facility that came before Commission at one time. He can see it fitting in this type of project, but not everywhere. There are two obvious locations that trucks would use to get to the interior court of this project. Whether children are supervised or unsupervised, they get done and are standing outside waiting for their parents to pick them up. They still end up running around. Taking the risk that they would be in truck traffic bothers him. The center portion of Building 1 makes sense to him because it limits the vehicles in front of it to cars, not semis or delivery type trucks. He is also concerned that hazardous materials are allowed by right inside the building. It may limit the type of industrial user that would want to lease space here because they wouldn't want their hazardous materials next to children. He understands the ability for this type of use to be in the business park, but thinks it needs to be controlled within certain areas of the facility. If, for example, it's limited to only Building 1 minus the end caps, because he thinks end caps are too close to truck traffic. That means somebody in Buildings 2 and 3 don't have to worry about a family type business next door encroaching in their use. If too many are allowed in, the whole function as it was intended changes.

**MR. EARL** stated he understands Vice Chair Irby's position. Incompatibility was a concern identified in the staff report. If the use characteristic is mostly Friday night/weekend when there are not other tenants, and the truck traffic and deliveries are occurring during the day, not only is this use using the facility in other ways when the other tenants aren't there, but there also are no trucks there either. If the use characteristics were the same and this use was peaking at the same time during the day, then there would be a conflict with trucks. Because this is a hybrid use and is not normal, there really isn't much truck movement when children are present.

**VICE CHAIRMAN IRBY** stated that may be true during their particular peak period, but there will still be functions going on during business hours and there will still be kids playing in the area. Mr. Earl stated that was true, he can't say there will never be a conflict. There is a potential to have one of the smaller delivery trucks coming into the

interior area when there are children present. This kind of use is designed to have the children inside the whole time. They don't wait outside. It's not an outside kind of use. On the hazardous materials issue, while he can't say there is no possibility of hazardous materials, he can say there's no more possibility than a swimming pool supply store at a retail center. There is some opportunity for hazardous materials with a lot of things, but this is primarily going to the higher end user, including the showroom user. The hazardous materials are controlled. There are restrictions on how they're used. It is a viable concern, but he feels it's a minor concern.

**VICE CHAIRMAN IRBY** stated if the location were narrowed and you could only have that use between suites x and x, then you know the other portions of the building will never have kids next door to them. Mr. Earl stated right now they don't have the right to have it in any portion of the project, so if they get approval to get it in some portion of the project that's better than what they have. **VICE CHAIRMAN IRBY** stated his point is if they are limited to having 25% of this use, but sprinkle it throughout all the buildings, then that will limit the functions that were supposed to be in these buildings. Mr. Earl responded he appreciates what Vice Chair Irby is saying, but they would like the ability to have this user in the project with whatever restrictions are placed on them so they can move forward.

**COMMISSIONER GULSVIG** stated he shares Vice Chair Irby's concerns, but his concern is because of the high cost of square footage in a facility of this nature, that inventory producing businesses will probably not be as inclined to go in here as they're making it to be. This type of industrial facility is really high end and it's probably not going to have as much truck traffic as a lesser industrial complex would have.

**CHAIRMAN FLANDERS** stated he appreciates Ms. Mackay's analysis, but one of the things he was looking at is the parking. Even though the traffic study provides a good analysis based on other locations, staff has not had the opportunity to really look at the traffic impact statement. That's one of the components missing from him being able to make a decision on this case tonight.

**MR. CATE** stated he would like to respond to Vice Chair Irby's comment. With respect to Bounce Jungle, it's actually three 3,000-foot bays and the entry is the third bay over from the drive aisle. It's as far removed as possible. That bay does afford the tenant a nice window line along the side, so they get a lot of light inside. As far as sprinkling different uses within the park, they have no idea where a particular tenant would want to go. The other buildings are more expensive. Ms. Mackay has been trying to find a location for a dive shop. A dive shop would probably want to be on the front unit. They would like to have the flexibility to address what the tenant is looking for.

There being no further questions or comments from the Commissioners, Chairman Flanders opened the floor for public comment.

**CHAIRMAN FLANDERS** stated he had 5 speaker cards from audience members, however, some of them have left.

**George and Donna Urish, 2242 E. Horseshoe Pl.,** are in favor of the project;  
**Steve Gloyd, 2401 E. Everglade Ct.,** is in favor of the project;  
**J. Benham Malcom, 2026 E. Crescent Pl.,** is in favor of the project; and  
**Sarge Glenn, 14 S. 29<sup>th</sup> Pl., Gilbert,** is in favor of the project.

**SARGE GLENN, 14 S. 29<sup>th</sup> PL., GILBERT,** stated he is with Bounce Jungle. They have been looking for a location for several years. He has been doing commercial real estate for 7 or 8 years. With the City of Chandler, he has never been able to get a use like this. There are a lot of great businesses that fall into this use category. Unfortunately, he has had to take them outside the City of Chandler because most tenants are not willing to go through this process. The retail option doesn't work for them due to price and some other things. Gymnastics has a clear height issue, as does Bounce Jungle. Everybody has cost as an issue. Over the years he's done a lot of deals with this type of use but never in Chandler just because it's so cut and dried with the I-1 and with the concerns Commission has brought up. When he started working with Mr. Sunshine, he really wanted to be in Chandler. He lives here and is involved with the community, and wanted to be in Chandler and go through this process. They talked to a lot of different business parks; Panattoni, Hewson etc. They ended up at Red Rock because it made the most sense. It's so much more higher end than the other competing projects, that they don't think they will have a problem with the heavy industrial businesses. This park won't get machine shops and other highly industrial uses that would compete with recreational public assembly uses. It's a rare public assembly use that can afford to pay retail prices. That's why they're in industrial parks in Gilbert. A few of them locate in small spaces in retail centers, but they have a hard time making it. Ultimately, they look to lower their rent and get into an industrial center in Mesa or Tempe. Red Rock makes sense in Chandler.

**ELI SUNSHINE, 2088 E. POWELL, CHANDLER,** stated this is a destination facility. It's a reservation-based business; it's not a drop-in facility. They will know who's coming, at what time and how many people are coming. They will be able to schedule accordingly. They will be scheduling time slots apart so they don't have 70 cars coming at once. They will be spaced out so they know if they need to allow one party to leave before another arrives. The kids will not be outside running around. Either the parents will be with them or there will be guardians. If it's a sports party, the coach will be with them. They will be responsible for the kids. The kids will not be able to just leave when they want or run around the parking lot. It's not good for business. It would be a liability for him and he won't let that happen. That's one of the reasons they went three suites in and looked at the entrance and exit. It's a safety issue. If he's not going to be concerned about the safety, then this is the wrong business for him to be in. They were recruited by several different cities. However, they live in Chandler and are involved in Chandler, it was important to them to locate their business in Chandler. They noticed a lack of this type of business, especially in the South Chandler community. After talking to people in

the community, and in Gilbert, Ahwatukee and Tempe, they found that residents are having to go to other cities to find these facilities to have birthday parties. There's no need for them to have to do that. They are here and want to do it, and have found a facility that would work great.

**MR. EARL** thanked the Commissioners for letting them explain the ins and outs of the Bounce Jungle business. They realize they're asking for more than just the one business; they're asking for the opportunity to have similar family recreational uses. They really believe these uses are not inconsistent.

**COMMISSIONER GULSVIG** asked staff if this rezoning would be for the entire complex. **MS. NOVAK** responded it is. The application requests rezoning of all three buildings. The request is to allow 50% of each building to be used for commercial purposes. It's not asking for 50% of the whole business park, just 50% of each individual building. Mr. Earl mentioned they would be agreeable to restricting it to no more than 25%, however, she's not clear if that means each building or 25% of the whole business park. Staff doesn't have enough information to evaluate that proposal. Which 25%, which building, will end caps be restricted, are they just going into the middle, where will the parking be, etc. **COMMISSIONER GULSVIG** stated the request he is looking at is to amend the PAD to expand the permitted uses within the zoning district. It doesn't say anything about 50%. Ms. Novak responded that was in the staff report. The request is driven by Bounce Jungle because they've already committed to wanting to go in at this location. However, when staff looks at a PAD amendment they have to look at the whole business park. They can't just amend the zoning for one tenant space. Staff had a lot of verbal discussions with the applicant so there isn't anything in writing clarifying which buildings, what the percentage of square footage is in each building, and how much parking is allocated. It just evolved to an interpretation that no more than 50% of each building would be considered. That was something staff felt comfortable taking forward, even though they're not supportive of the request. With all of tonight's discussion, that needs to be narrowed down a little further. It's staff's understanding that the front buildings are designed specifically to have more of a storefront office showroom.

**COMMISSIONER GULSVIG** asked how much time it would take to resolve those issues. The applicant obviously wants to go forward to Council. **MS. NOVAK** responded if Planning Commission acts on the request tonight, it would go to Council on April 24<sup>th</sup>. If it were continued, the next available Planning Commission agenda would be May 7<sup>th</sup>. That would put it on the May 22<sup>nd</sup> Council agenda. **COMMISSIONER GULSVIG** stated he doesn't feel Commission has enough specifics to make a proper motion on the case. Ms. Novak responded the example business in the narrative is represented as being open during the week as well as on the weekends. In the summer, it will be all throughout the work week when there are other people in the business park. There has been discussion about maybe not having these businesses on the end caps, which staff feels is a big consideration because that's where all the trucks come in and turn around. There also needs to be a more thorough analysis of the parking so the

applicant can come back with a more specific request that staff feels more comfortable with.

**COMMISSIONER GULSVIG** stated he would like to allow Bounce Jungle to go in now and work the problems out later, and asked staff if that was possible. Ms. Novak responded the application before Commission is not to allow Bounce Jungle as an individual tenant in an individual tenant space. The application requested, and advertised, is specifically to allow assembly uses. There were examples provided that would allow businesses like this throughout the entire business park. It was verbally agreed upon with the applicant that no more than 50% of each building would have that type of use. Commission couldn't act solely on Bounce Jungle; it's part of a larger request. **COMMISSIONER GULSVIG** asked if a motion could be made to approve the level at 50% based on what has been advertised. **MR. DERMODY** responded Commission could further limit that if they wanted to. There could be a condition limiting it to 5,000 sq. ft. of the entire development if they wanted to. That's not what the applicant is looking for, but Commission could do it.

**CHAIRMAN FLANDERS** asked how that would impact the overall parking. They just received the traffic impact study. That's part of the concern raised by staff. He has a clear understanding of Bounce Jungle, but they need to make sure it doesn't impact other businesses. He would like to at least get staffs' take on the study after they have a chance to review it and ask the applicant some questions. Commission needs to have all the facts to make a clear decision.

**MR. GLENN BROCKMAN, ASSISTANT CITY ATTORNEY**, stated this isn't a Use Permit application, this is an application for rezoning for a conditional use. He doesn't see any conditions or stipulations. He doesn't know how Commission could approve a rezoning, on a conditional zoning, when they don't know what the conditions are.

**COMMISSIONER CASON** stated they all understand the use of Bounce Jungle, but there has also been discussion about uses like rock gyms. Those type of uses aren't limited to nighttime. Those are day uses. He feels it's important to have the traffic study before they make a decision.

**MOVED BY COMMISSIONER CASON**, seconded by **COMMISSIONER RIVERS**, to continue DVR07-0058 RED ROCK BUSINESS PLAZA to the May 7, 2008 Planning Commission meeting.

**COMMISSIONER CREEDON** stated that although she hates having to continue this case and would like to see it move forward tonight, she does like the use and thinks some of these expanded recreational uses would have minimal impact on parking and would be a good use within the business park. Since the majority of Commission is probably going to vote for the continuance, she wanted to stress that she would like to see this case move forward in the future.

**CHAIRMAN FLANDERS** stated he agrees with Commissioner Creedon's comments. They have a better understanding of what this use is now and he feels they're important for the fabric of the community. He just wants to make sure before they make a decision.

Motion to continue passed unanimously 7-0.

6. DIRECTOR'S REPORT

There was nothing to report.

7. CHAIRMAN'S ANNOUNCEMENT

The next regular meeting is April 16, 2008 at 5:30 p.m. in the Council Chambers, 22 S. Delaware Street, Chandler, Arizona.

8. ADJOURNMENT

The meeting was adjourned at 10:50 p.m.

---

Michael Flanders, Chairman

---

Douglas A. Ballard, Secretary

Planning & Zoning Commission

April 2, 2008

Page 61