

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, September 17, 2008 held in the City Council Chambers, 22 S. Delaware Street.

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

Chairman Michael Flanders
Vice Chairman Mark Irby
Commissioner Michael Cason
Commissioner Leigh Rivers
Commissioner Stephen Veitch
Commissioner Christy McClendon

Absent and excused: Commissioner Kristian Kelley

Also present:

Mr. Kevin Mayo, Acting Planning Manager
Ms. Jodie Novak, Senior Planner
Mr. William Dermody, Senior Planner
Mr. Erik Swanson, City Planner
Mr. Jason Crampton, City Planner
Mr. Glenn Brockman, Asst. City Attorney
Ms. Joyce Radatz, Clerk

4. APPROVAL OF MINUTES
MOVED BY VICE CHAIRMAN IRBY, seconded by **COMMISSIONER CASON** to approve the minutes of the September 3, 2008 Planning Commission hearing. The motion passed unanimously 6-0.
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 was one action item – item G.

MR. KEVIN MAYO, ACTING PLANNING MANAGER, stated the following items are on the consent agenda for approval.

B. AP08-0005 / DVR08-0016 PARCLAND CROSSING

Approved.

Request an Area Plan amendment to amend the land use from medium density residential to high density residential, and amend the Planned Area Development (PAD) zoning for a high density residential development. The request also includes Preliminary Development Plan (PDP) approval. The property is located approximately one-quarter mile east of Alma School Road on the north side of Willis Road.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "ParcLand Crossing", kept on file in the City of Chandler Planning Services Division, in File No's AP08-0005 & DVR08-0016 ParcLand Crossing, except as modified by condition herein.
2. Compliance with original stipulations adopted by the City Council as Ordinance No. 3858 in case DVR05-0063 ParcLand Crossing, except as modified by condition herein.
3. Condition No. 33 of Ordinance No. 3858 shall be deleted.
4. Condition No. 23(c) of Ordinance No. 3858 shall be modified to read as follows, Residential Permitted Uses: Multiple-family residential: apartments, townhouses, and condominiums.

C. DVR07-0028 RIGGS GATEWAY

Request continuance to the November 5, 2008 Planning Commission Hearing.

Request rezoning from General Industrial District (I-2) to Planned Area Development (PAD) for a commercial retail center with Preliminary Development Plan (PDP) approval on approximately 30 acres. The development is located on the northeast corner of Arizona Avenue and Riggs Road.

D. DVR08-0033 SANTAN MIXED USE AMENDED

Approved.

Request rezoning from Planned Area Development (PAD) Mixed Use to PAD Mixed Use Amended to permit an educational facility within an office development on approximately 9.2 acres of an approximate 18.2-acre site located at the southwest corner of Ray Road and the Loop 101 Price Freeway.

1. Development shall be in substantial conformance with the exhibits and representations within "Santan Mixed Use Amended", kept on file in the City of Chandler Planning Services Division, in File No. DVR08-0033, except as modified by condition herein.
2. Compliance with the original stipulations adopted by the City Council as Ordinance 3622, in case DVR04-0048 SANTAN MIXED USE AMENDED, except as modified by condition herein.
3. Only adult educational facilities as represented in this request are permitted. Other school/educational institution uses such as public or private grade schools, charter schools or other non-adult programs are not permitted.

E. PDP08-0018 CHAPMAN BMW

Approved.

Request Preliminary Development Plan (PDP) approval for a freestanding freeway monument sign as part of an automotive sales and service development on approximately 6.51-acres located west of the southwest corner of 54th Street and Orchid Lane (1/4 mile north of Ray Road).

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "CHAPMAN BMW" kept on file in the City of Chandler Planning Services Division, in File No. PDP08-0018, except as modified by condition herein.
2. Sign packages, including free-standing signs as well as wall-mounted signs, shall be designed in coordination with landscape plans, planting materials, storm water retention requirements, and utility pedestals, so as not to create problems with sign visibility or prompt the removal of required landscape materials.
3. All raceway signage shall be prohibited within the development.
4. All future signage shall be consistent with the signage contained within the attached exhibits with regards to sign type and quality. Any deviations shall require separate Preliminary Development Plan approval.

F. PDP08-0019 RYAN OFFICE COMPLEX

Approved.

Request Preliminary Development Plan (PDP) approval to amend the allowed signage on the existing monument sign. The property is located at the northwest corner of Arizona Avenue and Ryan Road.

1. Business name and logos shall be non-illuminated.
2. Logos are permitted as individual, flat cutout letters with vinyl located within the designated sign band area and meet all other separation dimensions as represented.
3. The monument shall have no more than five (5) business names including associated logos at any time on each side of the sign.
4. Business names are limited to a single-line of copy; two-lines of copy is not permitted.
5. Lettering style, height, and location shall be as represented.

H. UP08-0039 PMJ AUTOS LLC

Approved.

Request Use Permit approval to allow an auto broker/used car wholesaler within Planned Industrial District (I-1) zoning. The property is located at 128 West Boxelder Place, Suite 104, which is west of Arizona Avenue and north of Elliot Road.

1. Development shall be in substantial conformance with exhibits and representations.
2. Expansion or modification beyond the approved exhibits (Floor Plan, Site Plan, Narrative) shall void the Use Permit and require new Use Permit application and approval.

3. The Use Permit shall remain in effect for one (1) year from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.
4. There shall be no auto mechanical work, auto body, auto detailing, or washing of vehicles.
5. On-site advertising of vehicles for-sale is prohibited.
6. Banners on the building are not permitted without a banner permit issued by City of Chandler.

I. UP08-0042 MURPHY'S LAW

Approved.

Request Use Permit approval to sell liquor for on-premise consumption only within a restaurant and pub (Series 12 Restaurant License). The facility is located at 58 S. San Marcos Place in Historic Downtown Chandler.

1. The Use Permit granted is for a Series 12 license only, and any change of license shall require reapplication and new Use Permit approval.
2. The Use Permit is non-transferable to any other location.
3. Expansion or modification beyond the approved exhibits (Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
4. Any substantial change in the floor plan to include such items as, but not limited to, additional bar serving area or the addition of entertainment related uses shall require reapplication and approval of the Use Permit.
5. The area adjacent to the establishment shall be maintained in a clean and orderly manner.

J. UP08-0043 SANDSTONE CAFÉ

Approved.

Request Use Permit approval to sell alcohol (Series 12 Restaurant License) to restaurant patrons within an existing restaurant located at 4959 W. Ray Road, Suite #38, within the Corona del Sol Plaza.

1. The Use Permit is granted for a Series 12 license only, and any change of license shall require reapplication and new Use Permit approval.
2. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
3. The Use Permit is non-transferable to other store locations.

K. UP08-0045 373 S. DAKOTA STREET

Approved.

Request Use Permit approval to allow construction of a new single-family home on a vacant lot zoned Multiple Family Residential (MF-1). The property is located at 373 S. Dakota Street, south of Frye Road and west of Arizona Avenue.

1. Development shall be in substantial conformance with the exhibits and representations.
2. Approval by the Zoning Administrator of all project details required by Code or condition.
3. **The rear yard shall be enclosed with a six-foot masonry wall.**
4. **The front yard landscaping shall consist of at least two 15-gallon trees or larger, six 5-gallon shrubs or larger plus ground cover consisting of drought tolerant material with automatic underground irrigation.**

L. PPT08-0014 ADVANTAGE BUSINESS PARK

Approved.

Request Preliminary Plat approval for a commercial subdivision for an office and retail development located east and south of the southeast corner of Alma School and Pecos Roads.

1. Approval by the City Engineer and Director of Planning and Development with regard to the details of all submittals required by code or condition.

CHAIRMAN FLANDERS stated he had a “conflict of interest” on Item C as he is employed by the architect of record on that project. He will be abstaining on that item.

MOVED BY VICE CHAIRMAN IRBY, seconded by **COMMISSIONER RIVERS** to approve the Consent Agenda with additional stipulations as read into the record by Staff. The Consent Agenda passed unanimously 6-0.

ACTION:

G. UP08-0038 TORTAS EL GUERO

Request Use Permit approval to conduct outdoor cooking adjacent to an existing restaurant. The restaurant is located at 611 North Arizona Avenue, approximately 100 feet north of Galveston Street.

MR. BILL DERMODY, SENIOR CITY PLANNER, said this is a request for Use Permit approval to allow outdoor cooking adjacent to an existing restaurant. It occupies a former Taco Bell at 611 N. Arizona Avenue. It’s the second property north of Galveston on the east side of the street.

The main issue that we will be discussing this evening is parking. It has 19 spaces on site and about 23 are required so there is a deficit of about four. It was built that way back in

the early 80's and haven't been able to figure out exactly why there was a parking shortage at the time but it is there today according to code. In front of the entrance to Tortas El Guero they would like to temporarily occupy parking spaces on a regular basis most evenings during the week to conduct outdoor cooking. They provided some pictures of what that might look like. They took their equipment and put it outside so they would have an example. This would be viewed from the street. There would still be one open parking space and behind it the tents with the cooking equipment and a couple of dining tables. From an alternate angle they can see there is a sidewalk that leads from the main entrance to the restaurant out to there. They propose that all items would be paid for inside but they propose that the customers could pick up their food after paying out there and potentially eat at the tables or more likely bring it inside. They would like to conduct this in the evenings from 4:00 to 10:00 p.m.

They may recall that they have had Use Permits for similar types of uses farther north at the northeast and northwest corners of Ray Road and Arizona Avenue in front of the Food City and near the El Rancho Market. In both of those cases, Staff recommended approval and Planning Commission and Council approved those. They were a little bit of a different situation in that they were part of large retail shopping centers even if the entire shopping center was under-parked. Staff, Planning Commission and Council felt that there was enough flexibility because of the various tenants and their parking needs that there could be some sharing going on and both sides wouldn't be overloaded in any way by the parking demand. Also, both of those had conditions attached to them related to whether people could pick up food and neither of them could. All food had to be prepared outside but had to be picked up and paid for inside. Part of the reason for that was because of where it was located on sidewalks in front of these facilities where pedestrians would normally be passing. In this case it's a little less of a concern because all the parking is off to the right. The sidewalk does wrap around the building but it doesn't go to anything but to the drive thru lane. So that is less of a concern.

As he mentioned, parking is a concern and Staff is recommending denial of this request because of the parking issue. It is 4 short according to code right now. If this got put in, it would eliminate 2 parking spaces and it would also increase the demand. They have a little bit of dining space and it would make it short about 10 spaces according to the code requirement. Not being part of a retail shopping center, this particular site has to accommodate all of its parking, although demand today doesn't seem to be the same as code. If this gets more successful, they see it as a potential land use conflict. Again, the Staff recommendation is for denial and he said he would be happy to answer any questions.

CHAIRMAN FLANDERS asked if anybody had any questions of Staff.

COMMISSIONER RIVERS asked Mr. Dermody if the restaurant has a kitchen? Mr. Dermody said this restaurant does have a kitchen. The reason they'd like to do the cooking outside is more or less for advertising. It brings some energy to the streetscape

and it reminds people of what they do. Just like the grocery stores farther north they do it for the same reason – sort of like advertising.

VICE CHAIRMAN IRBY asked what is the health department stance on preparation of food out in a parking lot? Mr. Dermody stated the health department of Maricopa County has looked at this initially and don't see any major problems with it. Obviously, when you have food preparation going on in front of the two grocery stores farther north it's not something they are against. You have to meet certain requirements such as a hand washing station, food must be kept at certain temperatures and certain types of preparation must be done indoors. **VICE CHAIRMAN IRBY** stated as he has designed a lot of fast food restaurants similar to this and parking is a major issue especially for lunch and dinner. He would somewhat support the idea of them doing this if they redesigned and moved this thing to the north in the landscaped area. It's almost like outdoor patio space. Technically, that creates more parking requirements. For example, gas stations. You are dealing with people that are driving by. If they want any kind of structure over it – something better than a cheap shade structure. Currently as he sees this right now, he couldn't support it. He would support it if they came back and created this patio and not use up any parking spaces in the process.

MR. DERMODY replied that relocating to the landscaped area is something they had discussed internally with Staff. They didn't suggest that to the applicant because it is used for retention right now. They would normally require that retention be replaced somewhere else on the site but there is nowhere to do it unless they dug up the driveways and put in underground tanks which is prohibitively expensive for this little business.

VICE CHAIRMAN IRBY said when he looks at the photographs and obviously photographs can be deceiving, the amount of area they would need is a pretty flat area and can't be retaining a whole lot of water. Mr. Dermody said he wished he had the photograph from the street because you can tell a little bit better from that angle. **VICE CHAIRMAN IRBY** said it looks like it goes towards the street a little bit more but up against the building almost overlapping the sidewalk and abutting it right there. He can't imagine they couldn't displace that much water. He would think Staff and Engineering could come to terms with that solution if it went that direction. If it was 2 feet deep, he would say they have a problem.

CHAIRMAN FLANDERS asked if they would have to come back before them, would they just built an outdoor patio? Mr. Dermody said if it were a permanent outdoor patio they would be talking about a variance, but if it were concrete or something similar to that with a temporary structure like this, they would need a Use Permit for that. **CHAIRMAN FLANDERS** said a patio with a wrought iron fence with a trellis over it and they do the cooking inside would be nice. Doesn't that generate enough activity? The bigger part of this is just seeing the people out there is what he thinks they are trying to create – some type of visual activity. He would think if there were people sitting outside eating when it's nicer out that would kind of create that. Mr. Dermody replied they would have a setback issue with any permit structure out there because it wouldn't

meet the minimum front setback. **CHAIRMAN FLANDERS** said that would be a variance issue.

VICE CHAIRMAN IRBY said his feeling is that they lose the tables and chairs but extend the sidewalk enough to where the grilling is going on and then maybe extend an awning or some type of colorful umbrella.

CHAIRMAN FLANDERS said he was looking at the site plan and he noticed there isn't any handicapped parking. Does a Use Permit like this require them to come up to code on the ADA issues? Mr. Dermody said there actually is a handicapped space that is well hidden. It almost looks like a loading space but it is actually a handicap space.

VICE CHAIRMAN IRBY said it doesn't meet the code requirement. It should be the closest parking space to the front door.

COMMISSIONER CASON stated he had thought to go ahead and put the grill in the upper right hand corner underneath the tree but he is presuming now that is retention as well? Mr. Dermody said he is not sure whether that is retention or not. **COMMISSIONER CASON** said that seemed like the most viable spot and he did figure that if they were wanting to do some type of advertising he would venture to say if they put the barbecue back there and sold it inside, word of mouth in the neighborhood and by putting a couple of benches out in front would probably be as effective. Is there any potential to build a deck out there in the retention area or anything else like that to be able to allow the retention area to continue to serve its purpose but give them some square footage to put some tables and shade on? Mr. Dermody replied they hadn't talked about the fact that would present a couple of issues with setback again and cost. He assumes a deck would be more expensive. **COMMISSIONER CASON** said he hadn't mentioned any of the alternatives to the applicant. Is that because the applicant gave him the impression that this is the only thing they really could do? Mr. Dermody said it was clear that this was their preference. They only talked about the alternatives internally with Staff and they didn't like any of the other alternatives. Mostly for the retention reasons. That is why they didn't talk to the applicant about it.

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

MARJORIE AND GUSTAVO LOM, 611 N. ARIZONA AVENUE, CHANDLER, stated there was one other option that they thought about - using some of the space in the front of the building like they had mentioned and putting pavers out there to create a spot for people to sit down and eat outside. The other thing they thought about is that there drive thru space has 2 lanes there. They didn't know if they could use some of that space to put parallel parking or some sort of extra parking since there is a double lane there. They thought that maybe could be another option.

VICE CHAIRMAN IRBY said he thought it would be hard to accomplish in reality.

CHAIRMAN FLANDERS asked if the fire department needs to circulate around the building? That would probably be a conflict with the drive thru lane activity with parking there and they would pretty much block it. He is thinking probably not.

MAJORIE LOM asked at this point what would they need to do then to see if they could do the pavers or what would be the next step?

CHAIRMAN FLANDERS asked if any other Commissioners had any questions.

COMMISSIONER CASON asked her if they considered having their seating area out there in order bring more life to the front of their restaurant and having the cooking someplace else on the property rather than having it up front? Is there any advantage or disadvantage to that they see from a business plan standpoint?

MARJORIE LOM stated that actually seeing the cooking going on attracts people. They have definitely thought of putting tables out there and just setting up a place for people to eat but really it would be better for the people to see what they are cooking. It kind of attracts people.

COMMISSIONER CASON asked if that was the square footage they needed for the cooking and also for the 2 or 3 tables they want to put out there? Ms. Lom said she had heard that they mentioned that maybe they just set up the space to cook outside. She thinks that is a good option. Is that correct?

VICE CHAIRMAN IRBY said his suggestion would be as soon as they add tables and chairs that this adds to their parking requirement and actually an outdoor patio that has the ability to have tables and chairs adds to the requirement. They are short already. He is thinking that if they look at their photograph, it is more or less moving the whole equipment to the north into the landscaped area. They have a sidewalk running in front of their building right now. They just expand that sidewalk a little bit with pavers so that this equipment sits on a hard surface. If all they are doing is cooking, they might just be able to get away with something like that and then maybe get a bright colored 9-foot umbrella or something that also attracts attention. It wouldn't really be a permanent structure – it's really more of an additional sidewalk with the grill cooking and the guy standing on the sidewalk actually working it. That is just his suggestion and Staff can correct him. It's just a matter of sitting down with them and reapplying this thing as to whether it requires a Use Permit to do this or continue this one and work with them to come up with a solution. Obviously, there is a water retention requirement. Just visually looking at it by just adding 3 or 4 feet of sidewalk they could redo their landscaped area and still meet their current requirements. Ms. Lom said o.k.

COMMISSIONER RIVERS stated he would like to second that motion that that they could just pick their cooking equipment up and move it to the north and if they put in

pavers into this retention area he would be willing to bet that they are not going to do cooking if it's pouring rain. Ms. Lom said that is absolutely right. **COMMISSIONER RIVERS** asked if they have a place for this thing level so the cook can do the cooking and some kind of additional pavers area to accommodate the foot traffic of the people walking around to pick up their items? This would create their focal point out front and just keep their places to eat inside the restaurant. He is worried about the umbrella over the fire but they can work that out. He is just seconding his idea.

VICE CHAIRMAN IRBY said the umbrella is off to the side to give the cook some shade.

COMMISSIONER CASON asked if they would consider if they did cook outside only delivering their food on the inside? In other words, cook on the outside but they have to purchase it and receive it from within the restaurant? Ms. Lom replied at this point they are willing to do whatever they want them to do. **COMMISSIONER CASON** said he is concerned about that only because of the fact that has been a requirement of the other 2 sites and not to worry about competitive advantage or anything else like that because he thinks there is enough business to go around. He thinks in order to be consistent as we get more of these that we are consistent about how the food is delivered through all the applicants. He would like to see that the food is sold inside and received inside as well. He thinks those are all great ideas to come to fruition.

CHANDLER FLANDERS said to be honest with them there is a lot of questions still here. He thinks possibly to continue it for a couple of a weeks so they can talk with Staff a little bit further on what the options are. There maybe something they are not aware of and it may benefit them to talk a little bit further with them to get some different ideas. That is his suggestion. When they come back they will have a clear picture and understanding and they can go from there then.

KEVIN MAYO, ACTING PLANNING MANAGER, said if there is a two-week continuance from today to the October 1 hearing, tonight's hearing and the October 1 hearing track to the same City Council hearing. They have a two-week window that they can gather additional information and bring it back to Commission on October 1 if that is their wish.

VICE CHAIRMAN IRBY said yes, sitting down with Staff and Staff's thinking about some of the comments they made and some additional requirements like some landscaping or something that needs to be dealt with. It gives them time to think about it and come up with a solution.

MR. DERMODY stated probably getting a site plan from the applicant is pretty easy but the biggest piece of work they will have to do between now and the next meeting would be working with civil engineering on the retention question to see whether that's plausible and they would be glad to do that.

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

COMMISSIONER RIVERS said he had a comment for Mr. Dermody. Does it make a difference to the civil engineers as to whether they expand that sidewalk versus putting in pavers or does he know? Mr. Dermody said he doesn't think so. If it's either of those things then it's not retention. It's just a matter of how the retention is reallocated.

VICE CHAIRMAN IRBY said even if the pavers were 4-inches below the sidewalk all they are doing is setting their equipment on it. They are still standing in front of it and cooking and there might be a way of making both work. It really depends on the volume of water they are displacing.

CHAIRMAN FLANDERS asked if there was anybody in the audience that would care to speak in regards to this item. There were none. He then closed the floor and entertained a motion.

MOVED BY VICE CHAIRMAN IRBY, seconded by **COMMISSIONER RIVERS** to continue this case to our next Planning Commission hearing on October 1, 2008. The item passed 6-0.

CHAIRMAN FLANDERS said he received a speaker card after the approval of the Consent Agenda. This is in regards to item C. The gentlemen would just like to make a comment.

GLENN BROCKMAN, ASSISTANT CITY ATTORNEY said that is fine as long as it is related to an item on the agenda.

KIRK SIBLEY, 5846 S. ROBINS WAY, CHANDLER, said he represents Riggs residents for retail diversity. He said he took a risk by not bringing his boxing gloves like he had in the San Tan Sun News. He comes across less intimidating coming in with no boxing gloves and being five foot five. He doesn't think he needs to. He really appreciated City Staff's time with the Planning Commission. He is not familiar with a lot of them. He recognizes a few people from past meetings like the General Oversight Committee. He wanted to make sure that they understand their enthusiasm about what goes in this corner still exists. They appreciate the opportunity to work with the applicant and the extra time they are going to have to come back on the fifth of November. He does want to make sure they understand they are going to request time with each of them so they can understand a little bit better this part of the city process and how it works and give them their position and their enthusiasm. He thanked them for working with them and they can continue to work with that and get to some kind of mutual understanding so they can do what's best for the community, best for the city, best for the developer and get this think resolved. He thanked them for the continuance and to have a happy Halloween. He won't see them before then and he will see them on the 5th.

6. DIRECTOR'S REPORT

Mr. Mayo said at the last hearing they had requested a retreat be set up with Staff and the Planning Commission to talk about future goals and direction for the city. They have not set a date yet but they are looking at the middle of October. They will be contacting them shortly. There was nothing else to report.

7. CHAIRMAN'S ANNOUNCEMENTS

CHAIRMAN FLANDERS announced that the next regular meeting is October 1, 2008 at 5:30 p.m. in the Council Chambers, 22 S. Delaware Street, Chandler, Arizona. Vice Chairman Irby asked Staff on item A, the City Hall project, that he would like them to echo his comments that he would like them to sit down with Planning and Zoning Staff and Commission and get a little better handle on the project. He had a real hard time trying to critique it when he just saw it 5 minutes earlier. It is a complex project and the bones of it are very well done. He just thinks the skin and the design concept of it needs more thorough review and evaluation. They are a good firm and they can pull it off. He just wants to make sure everybody's thoughts and comments are inputted. Maybe he can pass that on to Council and the architect to work to that means. Chairman Flanders said he would just pass it along to Marian Stanley. Mr. Mayo said he would be glad to pass that on.

8. ADJOURNMENT

The meeting was adjourned at 6:04 p.m.

Michael Flanders, Chairman

Jeffrey A. Kurtz, Secretary