

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, February 4, 2009 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 Cason.
3. The following Commissioners answered Roll Call:

Chairman Michael Flanders  
Commissioner Michael Cason  
Commissioner Kristian Kelley  
Commissioner Stephen Veitch  
Commissioner Christy McClendon

Absent and excused:  
Commissioner Leigh Rivers

Absent:  
Vice Chairman Mark Irby

Also present:

Mr. Kevin Mayo, Principal Planner  
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

**CHAIRMAN FLANDERS** stated that Vice Chairman Irby is still missing.

4. APPROVAL OF MINUTES  
**MOVED BY COMMISSIONER CASON**, seconded by **COMMISSIONER KELLEY** to approve the minutes of the January 21, 2009 Planning Commission Hearing. The motion passed 5-0.
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 were two action items – Items A and J.

B. DVR08-0041 THE GROVE BIBLE CHURCH

**Approved.**

Request the establishment of initial City zoning of Agricultural District (AG-1) on an approximately ±20-acre site located north of the northeast corner of Queen Creek and Gilbert Roads.

C. PDP08-0039 CARMEL VILLAGE PLAZA

**Approved.**

Request Preliminary Development Plan (PDP) approval amending a comprehensive sign package as part of an approximate 20-acre commercial development located at the southwest corner of Gilbert and Queen Creek Roads.

1. Development shall be in substantial conformance with the exhibits and representations, entitled “Carmel Village Plaza” kept on file in the City of Chandler Planning Services Division, in File No. PRP08-0039, except as modified by condition herein.
2. 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.

D. PDP09-0001 CHANDLER CORPORATE CENTER

**Approved.**

Request Preliminary Development Plan (PDP) approval for modified monument signage at 500 and 585 N. Juniper Drive within the Chandler Corporate Center north and west of Chandler Boulevard and McClintock Drive.

1. Development shall be in substantial conformance with the application materials (site plan, elevations, narrative), except as modified by condition herein.
2. The monument sign’s sign panels shall have an integrated or decorative cover panel until a tenant name is added to the sign.
3. The monument sign package 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.
4. Development shall be in substantial conformance with previous approvals except as modified by this request.

E. UP08-0048 COWLED INSURANCE AGENCY

**Approved.**

Request Use Permit extension approval to allow for the use of a single-family home as a commercial business. The subject site is located at 1505 N. Alma School Road, north of the northeast corner of Alma School and Knox Roads.

1. Any expansion or modification beyond the approved Site Plan shall void the Use Permit and require a new Use Permit application.

2. The driveways shall be improved with decorative pavers, concrete, or asphalt within six months from Council approval, or the Use Permit shall be null and void.
3. The number of employees occupying the residential conversion shall not exceed two (2).
4. The Use Permit shall be effective for a period of one (1) year from the date of Council approval. Operation of the business beyond that date shall require re-application and approval of a new Use Permit.

F. UP08-0050 VALLEY CHRISTIAN HIGH SCHOOL

**Approved.**

Request Use Permit extension approval for the use of a modular building as a classroom. The subject site is located at 6900 W. Galveston Street, which is located at the northeast corner of Galveston and 56<sup>th</sup> Street.

1. The Use Permit shall remain in effect for five (5) years from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to the City of Chandler and approval by the City of Chandler.
2. Substantial expansion or modification beyond the approved exhibits shall void the Use Permit and require new Use Permit application and approval.
3. The site shall be maintained in a clean and orderly manner.

G. UP08-0053 POTRERO BAR & GRILL

**Approved.**

Request Use Permit approval to sell and serve all spirituous liquor (Series 6 Bar License) within a restaurant and entertainment facility in the Chandler Mercado shopping center at the northeast corner of Warner Road and Arizona Avenue.

1. The Use Permit is for a Series 6 license only, and any change in type of license shall require reapplication and new Use Permit approval.
2. Expansion beyond the approved Floor Plan shall void the Use Permit and require new Use Permit application and approval.
3. 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 of the Use Permit.
4. The Use Permit is non-transferable to any other location.
5. The Use Permit shall remain in effect for three (3) years from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require reapplication to and approval by the City of Chandler.
6. No alcohol shall be carried outside of the building into the parking lot or off-premises. Also, the sale of "To Go" packaged liquor is prohibited.
7. **The site shall be maintained in a clean and orderly manner.**

H. UP08-0054 NATIVE NEW YORKER AT MILL CROSSING

**Approved.**

Request Use Permit approval to sell liquor for on-premise consumption only within a new restaurant (Series 12 Restaurant License) located south of the southwest corner of Gilbert and Germann Roads within the Mill Crossing commercial development.

1. Expansion, modification, or relocation beyond the approved exhibits (Site Plan, Floor Plan, and Narrative) shall void the Use Permit and require new Use Permit re-application and approval.
2. The Use Permit is granted for a Series 12 license only, and any change of licenses shall require re-application and new Use Permit approval.
3. The Use Permit is non-transferable to other restaurant locations.
4. The site shall be maintained in a clean and orderly manner.

I. UP08-0060 LEISURE LIVING FOR THE ELDERLY

**Approved.**

Request Use Permit extension approval to operate an Assisted Living Home for up to eight residents within an existing single-family home. The subject site is located at 507 N. Nantucket Court.

1. The assisted living home shall have no more than eight (8) residents at any time.
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 three (3) years 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.

**CHAIRMAN FLANDERS** entertained a motion. **COMMISSIONER CASON** stated he would be voting no on item D. He said he thinks the signs are too big. The original PDP gives them all the right to have those big signs but he doesn't think it is appropriate in this location driving up a cul-de-sac.

**MOVED BY COMMISSIONER KELLEY**, seconded by **COMMISSIONER VEITCH** to approve the consent agenda as read into the record by Staff with the noted exception. The consent agenda passed unanimously 5-0.

**ACTION:**

A. DVR08-0036 QUIKTRIP (ARIZONA AVENUE & GERMANN ROAD)

Request action on the existing Planned Area Development (PAD) zoning to extend the conditional schedule for development, remove, or determine compliance with the three-year schedule for development or to cause the property to revert to the former PAD zoning. The existing PAD zoning is for a gas station use on approximately 2 acres.

Request to amend the building square footage requirements for construction to allow the QuikTrip to build prior to other commercial buildings. The property is located at the southwest corner of Arizona Avenue and Germann Road.

This application includes two separate requests. Upon finding the request for a Planned Area Development (PAD) zoning time extension to be consistent with the General Plan, Staff recommends approval of the time extension for an additional three years. Upon finding the request to amend the building square footage requirements for construction to allow the QuikTrip to build prior to other commercial buildings, Staff recommends denial.

**MS. JODIE NOVAK, SENIOR CITY PLANNER,** stated this property is located at the SWC of Arizona Avenue and Germann Road. The application request before them includes two components. They are two separate requests, which require two separate motions. The first request is to extend the existing Planned Area Development zoning that is on the property. The primary development zoning was granted for a period of three years in which they would have to start construction with foundation walls within those three years. Development has yet to come to commence so they are back asking to extend that zoning for an additional three years. That is for an approximate 2-acre property that did get zoning to allow for a gas station development.

The second request is to amend the building square footage requirement for construction as represented in the original PAD zoning and PDP case to allow QuikTrip to build prior to other commercial buildings. The property is 1.92 net acres in size. It does include a gas station facility, which has a convenience store as well as gas fueling station. They have ten double-sided fuel dispensing pumping units, which would equal about 20 pumping stations. They have a convenience store that is 5,104 square feet in size. Planning Staff is recommending approval of the time extension for the PAD zoning of the 3-year schedule for development that would expire in April of 2012. That expiration date is calculated from the previous zoning case expiration. She said she would get into details on the request to get the building square footage amended to explain that particular component of the application after she gives some background.

The QuikTrip is planned to develop on the intersection corner on the SWC of Arizona Avenue and Germann. There are three parcels on this property. When QuikTrip received its zoning it originally was part of a larger property which has since been divided up. There are three owners; QuikTrip, National Bank of Arizona and a commercial developer owns the largest parcel here. It is 10.49 net acres in size for the overall commercial parcel. The commercial center's development plan was approved back in December of 2004. It was originally zoned in 1999 for commercial uses. The gas station was not considered an allowed use under the original zoning. They amended the zoning and that was approved back in April of 2005 to allow QuikTrip. The original project of Olive Tree Plaza was a master planned commercial retail center. The corner parcel was a retail shops building that was approximately 6500 square feet in size. When that property

owner was working with QuikTrip Corporation, they agreed to come in and do the amendment to allow QuikTrip to develop instead of a retail shops building at the corner. QuikTrip did go through this process through Commission and City Council and it went through a design review process and eventually did get approved. The QuikTrip project is architecturally integrated and sited to be an integral component of the larger commercial center that was approved. The site plan is included in their packet. QuikTrip has a convenience store, which is 5104 square feet. In addition to that the canopy occupies just over 9800 square of area as well. The zoning code does require a gas station convenience store type use or any other drive in, drive up or high turn over type of use to be developed as an integral part of a larger commercial shopping center. That has been our code for many years. Furthermore, we did amend our zoning code in 2001 with the set up of commercial design standards. Those design standards include a specific language to preclude stand-alone corner pads from developing without being developed with some additional development of the larger commercial center. What is being proposed for QuikTrip is that the original application that they had proposed they were going to develop with the main shopping center or at least a portion of the main shopping center in accordance with code, and that they would have at least another 12,000 square feet of building area developing within that project. What they are asking for is to go ahead and develop alone. Right now, given the market, it is undeterminable when the remaining property is going to develop. They are asking for that opportunity to go ahead and develop first without having to develop with an additional building that is on someone else's property zoned on that corner. The gas station/convenience store that is proposed does not meet the square footage requirements under the code. The zoning code states that if you have a PAD building and that PAD building is 12,000 square feet or greater in building area and it's located within a commercial site that is 10 net acres or greater in size, that PAD building is allowed to go ahead and be constructed prior to the balance of the rest of the commercial center. If you have a PAD building that is 25,000 square feet or less in building area that is within a larger commercial site that is less than 10 net acres in size, than that PAD building has to be constructed concurrently or subsequently with another 12,000 square feet of building area.

Olive Tree Plaza commercial center including this gas station's parcel is 10.49 net acres in size as she had mentioned. With what QuikTrip is requesting, they would need to develop at least approximately another 6900 square feet of building area to meet that zoning code requirement on how to go ahead and build first. In building that additional 6900 square feet in building area, they would have to work with the main shopping center owner for the consideration of other retail shop buildings that would be able to develop with it. The bank PAD that is to the south along Arizona Avenue is planned with too small of a building to come along with the QuikTrip as well. The intent of the zoning code to have the developable square footage requirement was intended to prevent use such as but not limited to free-standing gas stations, convenience stores, pharmacies and markets that were wanting to come in and develop by themselves on a corner without the rest of the shopping center. She said she would be happy to answer any questions that they have. As her memo outlined, there are some examples of negative externality that can happen when you do develop a building on a corner or by itself as a stand along PAD

within a larger commercial parcel. It does create challenges in the future in terms of access and integration, synergy and compatibility with what may come forward in the future.

She said a brief summary as it is in the report, Arizona Avenue and Germann Road is a commercial node. It is designated to allow for commercial retail development on all four intersection corners. Their recommendation on the request to go ahead and build QuikTrip without any additional building square footage, they are recommending denial of that. They feel this corner still has opportunity to develop with the commercial use whether it is now or some time in the future. Developing the corner by itself does set a precedence given that they amended their code in 2001 to prohibit this type of development. Secondly, The QuikTrip project was designed and integrated to be part of a larger center. Developing by itself would also possibly create challenges of how it could be integrated architecturally and site wise with whatever may come in on the rest of it. There is always that opportunity that the other parcel owners on the two-parcels could come in and ask for something totally different than what is approved today. It just creates additional challenges to try to coordinate everything as another large commercial center. There was a comment in the applicant's narrative statement about their proposal tonight in regards to another QuikTrip that got approval a month after this case back in 2005. They are very different distinct projects. The QuikTrip that did get approved on the southeast corner of McQueen and Chandler Boulevard with part of what the city deemed as a redevelopment area. It was a big challenge to go ahead and get multiple property owners to agree to come in with a conceptual plan for commercial development as well as a QuikTrip. That application specifically requested an amendment to those zoning code standards to allow QuikTrip to build first. The city did deem that appropriate because the QuikTrip did take up approximately a third of the overall site.

This particular property is not in the redevelopment area, it is a much larger property in itself. The original application didn't request to allow QuikTrip to develop first. If it did, they would have been able to which is why they are hear today as to be able to ask for a waiver from the code standards to go ahead and develop initially. They feel that negative externalities are huge. When they look at developing individual PADS in the building area they do not count the gas canopy within that overall building area square footage. That was originally a discussion point with the applicant and how the City interprets that. Building area is definitely going to be an occupiable space where individuals are going to be gathering and congregating between the exterior walls of a structure. In the building area square footage QuikTrip initially felt they could built because they were counting their gas canopy in the overall square footage. If you did count the canopy with the convenience store it would make sense that you would meet that square footage requirement to go ahead and build first. The City doesn't count that canopy as part of it. It is a shade structure and it is not an occupiable space. Therefore, that is what triggered them having to come in with the amendment to be able to go ahead and build their project initially because they don't meet the square foot requirement.

They did have their neighborhood meeting. There wasn't any opposition or concerns and on the previous zoning case of several years ago there was no opposition or concerns from area property owners either. They haven't heard of anything at all. There was some inquiry with Circle K's representative, which is on the northeast corner of that intersection. They are not aware that they are opposed about it. They just want to find out what is going on and what the request is obviously for competition reasons. As she mentioned, Staff is recommended a three-year timing extension. They are recommending denial of the request to go ahead and build QuikTrip without developing any other square footage within the commercial center on this project. There are two proposed motions that they will be making. The first proposed motion would be a separate one to do the additional three-year time extension and the second motion would be the request to amend the building square footage requirement for construction to allow QuikTrip to build prior to other commercial building. Just for clarification purposes when they do their motions that QuikTrip is not asking to appeal the zoning divisions interpretation of the building square footage in terms of whether the gas canopy should or should not be counted as part of that square footage. The application is a request rather to waive what is in the zoning code to be able to grant them through their PAD zoning that would be re-established and their PDP to be able to go ahead and build that QuikTrip first and not have to build that additional square footage with it. There are no stipulations with the zoning time extension. There typically isn't one. With the motion for the building square footage, if Commission is inclined to support their request to go ahead and do that, they would have a standard condition that the development would be in conformance with any other previous zoning conditions that were established in the prior zoning case.

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

**GLENN BROCKMAN, ASSISTANT CITY ATTORNEY**, stated that because the two actions they are asked to deal with tonight relate to the same property, he would like so as not to confuse Council when this gets to them, deal with the timing extension first in its entirety, take their vote and then proceed with the other issue.

**CHAIRMAN FLANDERS** said that makes perfect sense. He said to the applicant that there is any reason to contest the time extension.

**CHARLES HEULLMANTEL OF CHARLES HUELLMANTEL & AFFILIATES, LLC. on behalf of the applicant QuikTrip**, stated that they are hard to separate and he understands why they might deal with them separately in motions but in terms of presenting his case they actually see them as very related.

**CHAIRMAN FLANDERS** asked the Asst. City Attorney if they should go on his recommendation?

**GLENN BROCKMAN, ASSISTANT CITY ATTORNEY**, if they are related, then they deal with entirely different issues. Perhaps the facts are related in which case he

would still prefer to deal with each of the matters separately. The applicant can address the first issue, deal with that one and then proceed on.

**CHAIRMAN FLANDERS** said lets do that and address one at a time and then go from there. He also if there were any questions of Staff.

**COMMISSIONER VEITCH** asked would the 3-year extension expire in 2012 or 2011? Ms. Novak replied it would expire in 2012 because the 3 years is calculated from when the original zoning had expired which was last year. It is not going to be calculated from this upcoming Council meeting. Commissioner Veitch said 3 years from 2008 would be 2011. Mr. Novak said that was correct, it should be 2011 not 2012.

**CHAIRMAN FLANDERS** went back to the applicant related to the timing extension.

**MR. HEULLMANTEL** said the history is relevant and he is not sure how they wanted him to proceed. It is his preference to provide history to all of it whether than repeat the history twice. He said it is their call.

**GLENN BROCKMAN, ASSISTANT CITY ATTORNEY**, asked the applicant if he is opposed to the timing extension? Mr. Heullmantel said no they requested it and they would like it. It is certainly not of their own doing. Mr. Brockman asked why do they need to go forward with any further presentation on that matter then? Staff is recommending it. They can ask if there is anybody in the audience opposed to it but he doubts it. Mr. Heullmantel said it puts the applicant at a little bit of a disadvantage because while he understands Staff, each of the Commissioners gets to vote individually. If he knew there were no concerns, he certainly wouldn't need to go in to the depth of the history. Without knowing that he feels a little uncomfortable not going into the details. Mr. Brockman said he hopes the applicant understands that the timing extension won't relate at all to any amendment of the conditions to the existing zoning. In other words, by law the timing extension is dealing with strictly with the issue of the timing extension. Mr. Heullmantel said his point is it would be awkward for them if there were Commissioners who were not comfortable giving the extension not knowing why they need the extension and they didn't get the extension. Mr. Brockman said he was simply going to point out that know matter what happens here this is simply a recommending body. Mr. Heullmantel said absolutely, nevertheless they care what Commission thinks. He asked Chairman Flanders if they don't want them to go into depth on the first issue, maybe they could find out from the Commission if there are concerns on that issue. If there are, they would like the opportunity to discuss it. If there isn't, they could certainly move more expeditiously on that matter.

**CHAIRMAN FLANDERS** said he didn't know if there are any issues on the timing extension. It looks like there are no concerns with the timing extension. He asked if there was anybody in the audience who would care to speak in regards to this item. He entertained a notion.

**MOVED BY COMMISSIONER CASON**, seconded by **COMMISSIONER VEITCH** to approve the timing extension only for an additional three years and it would be in effect until April 2011. That part of the item passed 5-0.

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

**MR. HUELLMANTEL** thanked him and said this is the more controversial part of their request. They would love at this point in time to develop their store. This is not their first time before the Planning Commission. He said several years ago when they prepared to build this store they filed their own PAD application separate from Olive Tree Plaza. It is important to point out that they are not affiliated with Olive Tree Plaza and never really have been and frankly, they can't control what happens with Olive Tree Plaza. They can't control and force them to build now. They would like to build their store and when they came through the process they spent several meetings with the Planning Commission sitting at the Development Review Commission trying to work on a design. That design was based on a number of different things. Some of it was the access points through the site and a great deal of it was the architecture. The architecture of this particular source is very different from what QuikTrip typically does. That is o.k. That was something that the City pushed for and frankly, in various portions of it, they pushed back. They tried to come together to find something that the Chandler Planning Commission could live with, that Staff could live with and that they could live with. Ultimately, after a number of meetings they did in fact find the case that was ultimately approved. When they prepared to build the store they were told to start preparing construction documents. In fact, they did start preparing construction documents. Not too long after that they were informed by Staff they couldn't proceed because of the very coordinates that Staff has spoken about today which is that if they are under 12,000 square feet, they need to develop with the rest of the center. In fact, Staff was right that about the same time another QuikTrip was approved and it was allowed to proceed without having this exception – without waiting for the rest of the center. They certainly don't intend to speak for Olive Tree but it is clear to them and it is clear to Staff that Olive Tree is not moving forward at this point in time. In these uncertain economic times it would be very challenging for them to guess when they might move forward. This site was designed with a number of things that would solve the issue of externalities.

When this site was originally designed, some of the things they were forced to deal with are things in the end that they are glad they are dealing with. Things like access points to make the rest of the center viable and landscaping and parking issues. Those things were all covered. In fact, they were covered before they came forward with their separate PAD, the City, with Staff and through the Planning Commission and ultimately through the Council and spent a great deal of time with Olive Tree. As he said before Olive Tree was designed with a character very different from what they would normally build. Because Olive Tree was already in place and because these issues, these externalities that the City is worried about today had already been solved. They were asked to conform their site to this site plan. They spent a great deal of time and energy making sure that our store would work with the rest of the development. At that point in time, they were

tied to the success of Olive Tree and they were o.k. with that as far as design standards. Assuming they would buy and hold their site and that it would be designed and approved for a particular use, they would be designed and approved for a use in a center that has been carefully, carefully scrutinized by the City. This is a challenge for them. They would like to build the store and they would like to build the store now. They think there is demand in the area. They think their store will coincide very well with what will eventually be Olive Tree Plaza. It may be called something else because it will have a new owner potentially. It will have the opportunity though to have all the access points that were so carefully designed before. He said he would like to answer questions about how that process went if they have them. Their request is quite simple. They have spent a great deal of time preparing this site and making sure it meshes with the rest of the site, again, keeping in mind that this is the only piece of property that they own. They don't own the rest of it. Yet, the rest of it has been planned. They would like to be able to move forward and construct their store. They would like to do it in the very way that the Planning Commission has approved it in the past.

**CHAIRMAN FLANDERS** asked if there were any questions of the applicant. He said he has one question for Staff. At one time this particular site and the retail part of it was under construction. He said he knew they were moving dirt. Did they go ahead and process their buildings for the building permits? Ms. Novak replied that the owner of the larger parcel of the main commercial center had committed plans for grading. She can't recall if they had submitted actual building plans for buildings but they were doing the grading work on that property and stalled midway through it. They work with them to clean up the property and remove the very tall dirt pile had remained there. She doesn't recall if they had any building permits.

**COMMISSIONER VEITCH** stated he had a question for Staff. He said there was a paragraph on page 5 of the Staff Report just before the Public Neighborhood Notification Section that reads: If the gas station/convenience store was approved to develop with or without additional building square footage, site improvements would be required including perimeter landscaping, parking areas, drive aisles, access to driveways, off-site improvements, intersection landscape feature and the like. Can they elaborate on that with respect to what the scope of that would have to be in order for this to develop initially by itself? Ms. Novak said she did leave it somewhat general. Obviously, they would have to come back through review with our civil plan review division as well as our site development plan review division. Traditionally, if this were a PAD that got approved with the original case to develop on its own, they would still be required to do all the perimeter landscaping around the larger center. That is a traditional requirement of ours. Secondly, they would have to do any off-site improvements, water/sewer effluent upgrades, any turn lanes or right-of-way dedications that would be required that aren't in place today to access their property with their driveways. In addition to that the City may deem in looking at that property through a traffic analysis that they should be putting the median break in or if QuikTrip wanted to have that median break for their use, that would be an additional improvement that would have to come in which would require some additional on-site pavement and parking to connect over towards that median break on

the west end of the property by Shops A. The intersection landscape at the corner is part of their perimeter landscaping improvements so any special features or designs or walls or any signage that they had originally approved would be installed as well as the part of their project proposal. They wouldn't necessarily be requiring them to put in parking for the main shopping center or design or grade any of the PAD for say, the bank, but they may sometimes within the improvements or where they are tying in any of their off-site utilities, may have to do additional site work beyond their parcel pending how all that gets designed, especially grading and drainage. They can't retain their own grading and drainage on their own property. It is part of a Master Grading Plan for the whole center. They would have to come in with a grading plan that establishes and shows how all that is going to be taken care as well as part of all of our plan reviews. They are aware of that coming in originally with their construction plans to come in and build by themselves. There were comments at that point on how you have to address building a PAD versus the rest of the center. **COMMISSIONER VEITCH** asked it is not just the off-site improvements adjacent to the site, it's all of them and it is not just the perimeter of their 1.92 acres, it is the perimeter of the entire site? Ms. Novak replied it potentially could be. Traditionally, if you have to put in a turn lane in, you are going to put the whole thing in. The City during the reviews need to determine based on traffic counts and volume on Arizona Ave. and Germann Road and access onto their project, what will determine at least what length of off-site improvements for right-of-way they would need. At a minimum they would ask them to at least landscape the perimeter.

**MR. HUELLMANTEL & AFFILIATES, LLC.** said when they initially started this process they believed from their conversations with Olive Tree that they were ahead of them. Having said that access to this site is critical to them and the access that they use on this site is actually not in their parcel based on the some of the discussion they had earlier. It is not a surprise to them at this point in the game that they would be doing a significant number of off-sites. That is something they are prepared to do in order to make the store work.

**CHAIRMAN FLANDERS** asked if there were any more questions of the applicant. There were none. He asked if there was anyone in the audience that would care to speak in regards to this item. There was on speaker.

**RAY CHAN, CHANDLER, with TJ OIL,** stated they have worked on the project on the northwest corner of McQueen and Germann Roads with the intention to build a Chevron Station. They are facing the same issue with the larger parcel owner that decided not to pursue their storage project. He said that the Council approved everything. Of course, they spent a great deal of time and money to get approval. They just want to make sure if the City approved this QuikTrip project without the additional square footage requirement to move forward, they want to make sure they will be granted with the same privilege.

**MR. HUELLMANTEL** said he had a response that is pretty brief. They do not have any of those facts so it is difficult for them to say whether they are similar or very

different. All they can do is ask for what they think is fair in their case and that would be to proceed based on not just the fact that they were a store of so many square feet, but that they have an opportunity on the rest of the center to work out egress and landscaping and architectural design.

**COMMISSIONER CASON** asked Ms. Novak if there are any restrictions on the large property holder with what has already been approved, the design package and everything else? Could they can come back 3 or 4 years from now and propose something totally different and then they would have to make sure that they match the gas station and everything that is associated with this so that they could maintain some type of semblance of order on this corner? Ms. Novak said that is correct. It obviously would be up to Staff and Planning Commission and Council through their prevue in terms of ultimately what develops around it. If that property owner or both property owners for the bank and main center decide to sell for other uses, they would have to come through and amend the PAD zoning to allow for other uses and what's approved today, which is a retail center. They would have to come in with a new Preliminary Development Plan for a new site design and a new development design as well. Through that review it would be determined how to best integrate similar architectural designs, exact architectural or different architectural designs and what QuikTrip has on the corner and how much you want that design to further be related with the rest of the project. **COMMISSIONER CASON** asked if the large parcel holder is the original parcel holder? Ms. Novak said her understanding of current ownership is that the larger parcel is still owned by the original owner who owned all 3 parcels before they subdivided and sold off a parcel to a bank, which was the bank PAD and then sold off a couple years ago to QuikTrip. There property is for sale. They have had different inquiries on it. Some are not retail shopping center uses. They have had inquiries for mini storage use and doing multi-family. There are people looking at that property regularly. It is possible that they are not going to develop it themselves but would sell it to somebody else who would then come in and develop. The bank had also inquired about building on their own and the same circumstances apply that they couldn't because they didn't have the additional square footage to go ahead with that, but they would still maintain ownership of it. **COMMISSIONER CASON** said that adding the bank wouldn't do it. You would have to add Shops A or Shops C in order to meet the qualification? Ms. Novak said that was correct.

**COMMISSIONER VEITCH** said he would like to express a view from a higher-level perspective and that is the code section that they have in their packet, 35-1902, is at this point the public policy of the City with respect to this issue. The City Council can change that if it wants to and for economic conditions or reasons, they could ask us to hold a public hearing on an amendment to that ordinance that would generally be applicable. He didn't think they should be initiating the change in this way at this time on this project. He stated there are just too many negatives that can follow that action and therefore, would tend to agree with Staff's recommendation.

**CHAIRMAN FLANDERS** said he agreed with that. He doesn't want to set a precedence here of going against the code. He can remember when they wrote this code.

It was very specific for certain pieces of property and situations that they had out in the markets. He agrees with Commissioner Veitch that they shouldn't be changing this and let City Council go ahead take care of that. As far as allowing them to build their building, he is really not in favor of it at this time. He thinks they need to work with the developer on the retail part or whatever. It doesn't sound like he's going to be moving along anytime soon.

**COMMISSIONER KELLEY** said to Staff that he understands what the ordinance is saying in terms of having to have 12,000 square feet. What does that really do? What is going to happen if they don't have a rule like this?

**KEVIN MAYO, PRINCIPAL PLANNER**, stated the intention of the code is prevent setting things in stone that hinder the natural developmental evolution of an area. The codes goal is to not let the small things drive it, but let the larger development drive it and then the PADS fall into place afterwards versus letting the PADS drive it and then have the larger center fall into place. Case in point, northeast corner of Chandler Boulevard and McQueen Road. That gas station exists today. It was planned for part of a larger center. As Chandler was going through its growth, the developmental patterns and land use patterns in the area changed. That corner as you may remember, very recently Santa Maria Village coming through. It was expressed by the development community that it was no longer viable for that commercial center and as it was designed originally, the gas station was a part of it. As they went through to plan that center, they then had to deal with the externality that Jodie had mentioned of the gas station at the corner and how do you transition from that land use to something else in a confined area and still make it long- term viable not only for the gas station to where you have somebody next to it that isn't going to push it out, but also for deals that are coming in. That is the real intention of that code – to not let the small pieces drive the larger center because if it gets put into place down the road and it is currently zoned for commercial, they do hope that it develops exactly as Olive Tree Plaza. As the market has shown and as the years have shown, that may not happen and it may be something completely different. If they put into place one piece of this as the applicant had indicated, they worked very hard to get that to fit into that center. If it goes, it becomes harder to make the rest of that center fit with that piece. He said that was his best explanation. **COMMISSIONER KELLEY** said he thinks that makes great sense. In this instance though they do have a larger center that did drive the site plan of the QuikTrip. Is that right? **MR. MAYO** said that is correct. The larger center came before QuikTrip and then they in fact had a separation site plan for shops at that corner and then when QuikTrip came in on that 2-acre corner piece they worked with their site plan to fit into the larger center.

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

**MOVED BY COMMISSIONER VEITCH**, seconded by **COMMISSIONER MCCLENDON** to deny DVR08-0036 QUIKTRIP – ARIZONA AVE. & GERMANN RD. The vote was 4 (in favor of the denial) to 1 (opposed to the denial).

**CHAIRMAN FLANDERS** asked when this was going forward to City Council. Ms. Novak said it was scheduled for February 26, 2009.

J. UP08-0068 HOLLYWOOD BILLIARDS & INTERNET CAFÉ  
Request Use Permit extension approval to sell and serve beer and wine (Series 7 Liquor License) within an establishment at 3029 N. Alma School Road, Suite #114, at the northeast corner of Elliot and Alma School Roads.

**MR. BILL DERMODY, SENIOR CITY PLANNER**, stated this is a request for an extension of their existing use permit, series 7 beer and wine license in order to sell and serve beer and wine on this premise at the northeast corner of Alma School and Elliot Roads. It is basically a billiards hall, party room and internet café combination and they are recommending approval for one year rather than the usual three because of a couple of issues – the door remaining open on the back on a regular basis and then they converted pool tables to the party room without a building permit and without use permit approval. Because of those transgressions, they recommend a shorter time limit in order to keep a better eye on the situation.

**CHAIRMAN FLANDERS** asked if there were any questions of Staff. There were none. He called the applicant forward.

**SAM LEE, OXNARD, CALIFORNIA**, said he read the documents from the planner and everything was acceptable except item 5. He said he wanted to tell them why he pulled it off the consent agenda and why he is asking 3 years instead of one year. He wanted to give them a little history on this project so they might understand why he is asking 3 years.

This business opened up as a billiard a little over 3 years ago. That location used to be Peter Piper Pizza and they had pizza, beer and wine, and parties. After they moved out, it was vacant for a while and this applicant released that location and opened the billiard. They would of liked to have a liquor license the same time too, but he had a little obstacle so they opened first as a billiard. He wanted to show how he could manage his business. He did that for one year without a liquor permit. During that first year his business was just awful and his square footage was 12,800. His electricity bill was about \$5,000 a month. He was losing money left and right every month. He asked me what he was going to do. They decided on beer and wine. A year ago he was in front of them requesting a beer and wine use permit. He remembered at that time they had some obstacles particularly by one of the tenants in the center who happened to have a bar. He thought they were hurting his business. He organized his friends but somehow they failed to prove that. As usual, City of Chandler gives a first one-year permit. He calls them probation, which is o.k. They want to see how we are doing first. If we are good, we get more, which makes sense. Meantime, in the beer and wine camp (they don't sell wine anyways, just beer only), they expected business would be doing really well, but it was not. Also, the timing too - in 2008, the economy was really bad. So in the last 2 years he

lost about \$500,000. So what is next? He said he saw that there was a lot of birthday parties, so he said let's do that. To do this the professional way, you have to have a private room anyways. His idea was what if they divide this area and remove some pool tables and make this a private party room. Somehow he was misled. That doesn't mean he is going to do parties without the permits. He knew his permit expired around the middle of December last year. He has to make applications. In the meantime he prepared. As soon as the approval is done, he is going to do party functions. Everything is done and now they are waiting for permits for extension. They submitted new floor plan and the planner asked what happened there.

**CHAIRMAN FLANDERS** asked Mr. Lee if he understood why they want the one-year? He said he was looking at stipulation no. 3 that talks about expansion or modification beyond the approved exhibits. He thinks their activity that was going on in their building as a result of the party room was something that needed some plans submitted on for a permit. That is why Staff is recommending the one-year extension, basically so they can keep an eye on them. He asked Mr. Lee if he understood why they are doing that?

**MR. LEE** said he understands and that is why he is there rather than letting it go as is. His applicant understands that. They have never used the room. It is just divided and that is it. There is nothing there. They only removed some pool tables and nothing has been utilized yet. He knows they made a mistake without the permit. But they never used it. The other thing is the party function was already there when Peter Piper Pizza was there. He knows they gave the applicant a one-year probation to see how they handled their business and the last two years there were no objections. In January they had a neighborhood meeting and nobody showed up and there were no objections. Everybody is happy at this moment, just the room is divided – nothing else changed. What is difference with 1 year, 2 years or 3 years? It is a big difference. He doesn't think he can survive here. His judgment is less than one year. He might be able to sell the store or he has to close it. If it closes, there will be a lot of damage as there will be no tenant there. Also, it is really bad for his investment. He is a business broker and his point is this. Let's get a buyer. There are usually 2 questions that pop up. How long is the lease there? So the lease is no problem – he has a long lease. The next question is how long do they have a permit there? They say one year and the buyer says they are not going to touch that. What if they don't get the extension? That's the reason there is a lot of difference between the one and three year extension. He is asking them for a three-year extension.

**CHAIRMAN FLANDERS** asked if they had any questions for the applicant. There were none. He also asked if there was anybody in the audience that would like to speak in regards to this item. There were none. He closed the floor for discussion and motion.

**MOVED BY COMMISSIONER CASON**, seconded by **COMMISSIONER KELLEY** to approve UP08-0068 HOLLYWOOD BILLIARDS with stipulation no. 5 to remain in effect for one year from the effective date of City Council approval. The item passed 5-0.

6. DIRECTOR'S REPORT

Mr. Mayo stated there was nothing to report.

7. CHAIRMAN'S ANNOUNCEMENTS

CHAIRMAN FLANDERS announced that the next regular meeting is February 18, 2009 at 5:30 p.m. in the Council Chambers, 22 S. Delaware Street, Chandler Arizona.

8. ADJOURNMENT

The meeting was adjourned at 6:30 p.m.

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Michael Flanders, Chairman

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Jeffrey A. Kurtz, Secretary