

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, May 20, 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 Chairman Flanders.
3. The following Commissioners answered Roll Call:

Chairman Michael Flanders  
Vice Chairman Michael Cason  
Commissioner Leigh Rivers  
Commissioner Kristian Kelley  
Commissioner Stephen Veitch  
Commissioner Christy McClendon  
Commissioner Kevin Hartke

Also present:

Mr. Kevin Mayo, Acting Planning Manager  
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 COMMISSIONER RIVERS**, seconded by **VICE CHAIRMAN CASON** to approve the minutes of the May 6, 2009 Planning Commission Hearing. The motion passed 7-0 unanimously.
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.

A. DVR08-0004 THE CROSSROADS

**Approved.**

Request amendment to the Santan Freeway Corridor Area Plan, re-designating an approximate 3-acre parcel located west of the northwest corner of Dobson Road and the

Loop 202 Santan Freeway, from Public/Semi-Public Facilities to Commercial/Office/Business Park.

In addition, request rezoning from Planned Area Development (PAD) for church uses, to PAD Amended along with Preliminary Development Plan (PDP) approval for the construction of a general/medical office development.

1. Development shall be in substantial conformance with Exhibit A, Development Booklets, entitled "THE CROSSROADS" kept on file in the City of Chandler Planning Services Division, in File No. DVR08-0004, except as modified by condition herein.
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. 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.
4. 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.
5. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls.
6. 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.
7. The source of water that shall be used on the open space, common areas, and landscape tracts shall be reclaimed water (effluent). If reclaimed water is not available at the time of construction, and the total landscapable area is 10 acres in size or greater, these areas will be irrigated and supplied with water, other than surface water from any irrigation district, by the owner of the development through sources consistent with the laws of the State of Arizona and the rules and regulations of the Arizona Department of Water Resources. If the total landscapable area is less than 10 acres in size, the open space common areas, and landscape tracts may be irrigated and supplied with water by or through the use of potable water provided by the City of Chandler or any other source that will not otherwise interfere with, impede, diminish, reduce, limit or otherwise adversely affect the City of Chandler's municipal water service area nor shall such provision of water cause a credit or charge to be made against the City of Chandler's gallons per capita per day (GPCD) allotment or

allocation. However, when the City of Chandler has effluent of sufficient quantity and quality which meets the requirements of the Arizona Department of Environmental Quality for the purposes intended available to the property to support the open space, common areas, and landscape tracts available, Chandler effluent shall be used to irrigate these areas.

In the event the owner sells or otherwise transfers the development to another person or entity, the owner will also sell or transfer to the buyer of the development, at the buyer's option, the water rights and permits then applicable to the development. The limitation that the water for the development is to be owner-provided and the restriction provided for in the preceding sentence shall be stated on the final plat governing the development, so as to provide notice to any future owners. The Public Report, Purchase Contracts, and Final Plats shall include a disclosure statement outlining that The Crossroads development shall use treated effluent to maintain open space, common areas, and landscape tracts.

8. The landscaping shall be maintained at a level consistent with or better than at the time of planting. The site shall be maintained in a clean and orderly manner.
9. All raceway signage shall be prohibited within the development.
10. The parking shade canopies shall utilize elements and material found upon the building.
11. The site shall be maintained in a clean and orderly manner.
12. The freestanding monument sign tenant panels shall utilize routed push-through opaque-face halo-illuminated lettering.
13. The freestanding monument sign shall utilize an exposed masonry base in lieu of a stucco masonry base.
- 14. The applicant shall work with Staff to provide additional shading for the third floor south facing windows.**

B. DVR08-0043 RAY ROAD INDUSTRIAL CENTER

**Approved.**

Request action on the existing Planned Industrial District/Planned Area Development (I-1/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 Regional Commercial (C-3)/PAD zoning. The existing I-1/PAD zoning is for office/warehouse uses on approximately seven (7) acres. The property is located at the northwest corner of Ray Road and the Union Pacific Railroad, approximately 765 feet east of Arizona Avenue.

Staff, upon finding consistency with the General Plan, recommends approval to extend the timing condition for three (3) years with all of the conditions in the original approval remaining in effect.

C. PDP09-0007 DOLLAR SELF STORAGE

**Approved.**

Request approval of a Preliminary Development Plan (PDP) amendment for building signage on an existing building. The property is located east of the southeast corner of Arizona Avenue and Ocotillo Road.

1. Development shall be in substantial conformance with Exhibit A, Development Packet, for Dollar Self Storage, kept on file in the City of Chandler Planning Services Division, in File No. PDP09-0007, except as modified by condition herein.
2. Compliance with original conditions adopted by the City Council as Ordinance No. 3896 in case DVR06-0060, except as modified by condition herein.

D. UP09-0008 STELLAR AUTOPLEX SALES AND LEASING, LLC.

**Approved.**

Request Use Permit approval for automotive sales within an I-1 Planned Industrial zoning district. The subject site is located at the southeast corner of Milky Way and 79<sup>th</sup> Street.

1. The Use Permit shall be extended for a period of three (3) years, at which time re-application shall be required. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.
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. On street parking will be prohibited. All vehicles must be parked within designated parking spaces inside the paved parking lot, fenced yard, or inside the building.
4. Any future signage shall meet current Sign Code requirements.
5. Sign packages, including free-standing signs as well as wall-mounted signs, shall be designed in coordination with landscape plans, planting materials, storm water retention requirements, and utility pedestals, so as not to create problems with sign visibility or prompt the removal of required landscape materials.
6. Raceway signage shall be prohibited within the development.
7. The site shall be maintained in a clean and orderly manner.
8. The signage shall be limited to metal pan channel halo or non-illuminated lettering.

**MOVED BY VICE CHAIRMAN CASON**, seconded by **COMMISSIONER RIVERS** to approve the consent agenda as read into the record by Staff. The consent agenda passed 7-0.

**ACTION:**

D. UP08-0067 HUDSON BAYLOR CHANDLER

Request Use Permit approval for the expansion of a recycling facility located within a General Industrial (I-2) zoning district, and to allow ingress and egress off of Hamilton

Street. The subject site is located north and west of the northwest corner of Ray Road and Hamilton Street.

1. The site shall be maintained in a clean and orderly manner.
2. 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.
3. Expansion or modification beyond the approved exhibits (Site Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
4. The applicant shall work with Staff to properly locate 'No Parking' signage along the access drive, and to ensure proper vehicular circulation on the site.
5. The applicant shall provide approximately 16-feet of additional pavement east of the existing weigh station to allow for safe vehicular circulation.
6. **The applicant is to work with Staff to prevent migration of materials from the site.**

**ERIK SWANSON, CITY PLANNER**, stated this is a Use Permit request for the approval of the expansion of a recycling facility within a General Industrial Zoning District and in addition to the expansion, to allow ingress/egress off of Hamilton Street. The subject site is located at 1100 N. Hamilton Street, which is north and west of the northwest corner of Ray and Hamilton Streets. The expansion moves into an approximate 2-acre site. The proposal is for a PAD of approximately 5600 square feet. The PAD will be surrounded by 10-foot concrete form walls with 10-foot netting above that. The expansion process and what they are requesting is for trucks to enter in off of Hamilton Street along the access road, go to the expansion site, drop off recycables, turn around and then exit back out onto Hamilton Street. Overall, Staff has looked at the proposed expansion and the proposed additional amounts of traffic. Staff is comfortable with this and doesn't have any concerns. There were two neighborhood meetings and approximately eight people attended those meetings altogether. While there wasn't fantastic support for it, there wasn't strong opposition. Some concerns expressed were trash and pests, insects and the like as well as additional traffic onto Hamilton Street. Again, Staff has reviewed this. Seeing that the additional traffic is very minor to what Hamilton Street can handle for capacity load and are in support of that. Staff has added a one-year timing condition at which time the application if approved by City Council will need to come back through the review process, which would include another neighborhood meeting and then the Planning Commission and City Council hearing. The reason for the one-year timing condition is to allow any concerns to come back to them if there is increased traffic or if the trash becomes an issue. That will give them another time to look at that. Overall, they are comfortable with the request and do recommend approval with conditions.

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

**COMMISSIONER RIVERS** stated he was curious that something was mentioned that wasn't mentioned before. Is it possible to put in a stipulation regarding pest control? Mr. Swanson said he is not sure if that is something they can address. They do have a

condition that the site be maintained in a clean and orderly manner but the applicant has indicated that they do have a pest control service that comes once a month simply because soda cans and the like do attract some insects and they certainly don't want them there anymore than anybody else does. They have indicated that they will have that service. He would have to defer that to the City Attorney to see if that is something they can add. He just doesn't know.

**GLENN BROCKMAN, ASSISTANT CITY ATTORNEY**, said the problem is it is not one of those things that they are going to be able to enforce very well. **COMMISSIONER RIVERS** said he understands but he thought it was part of keeping this site in a clean and orderly manner. **MR. BROCKMAN** said they already have that provision.

**CHAIRMAN FLANDERS** called up the applicant.

**MIKE CURLEY of Earl, Curley & Lagarde** stated he was there on behalf of Hudson Baylor and Will Herzog of Hudson Baylor is also there if they have any specific questions regarding the operations of the facility.

Hudson Baylor has been in the recycling business since 1983. They operate in a number of states back east as well as here. In Arizona Hudson Baylor conducts about 70% of all of the valleys recycling efforts. They have 3 large facilities; one on I-17, which is a state-of-the-art facility, one at University Drive by Sky Harbor, and there is one up on the Maricopa-Pima Indian reservation. He has met with the Planning Staff and the Solid Waste Department and the Asst. City Manager on this particular site. They are very familiar with Hudson Baylor and have visited and reviewed/discussed at length the whole recycling effort and they have gone up to the I-17 site. They have been very, very impressed with Hudson Baylor as an operator and acknowledge that Hudson Baylor is probably the Premier operator in the valley.

The materials at this site don't involve any solid waste, it is simply loose papers, plastic and glass. They are brought to the site by primarily city trucks and/or private haulers. The materials are deposited at this site and then they are subsequently loaded on to trailers. The trailers have very tightly bound tarps on top of the trailers and then they are taken from the site to a sorting facility, probably in this instance up to the reservation. There are 3 to 5 employees on site every day and their primary function is to do 2 things. One is to basically make sure that the materials are properly placed on top of the trailers when they are exiting and the second thing is to keep the property to clean. When he visited the I-17 site, he literally had trouble finding it because the building was relatively new and the grounds surrounding it have extensive landscaping areas and open space areas adjacent to the I-17 site. You didn't see a shred of paper there. In connection with this particular site, they are unaware of any complaints regarding how the property has been maintained. Every time that he has been down in Chandler he has been driving up and down Hamilton Street and has not noticed any debris. Staff has told him they are unaware of any instances or complaints. Having said that someone is going to pop up

and say there is some debris outside along the Hamilton buffer. He hasn't seen it or at least they are unaware of it and part of what they are committed to here is that their identity now is public and to the extent that anybody in the future on the existing site or if this Use Permit is granted and are aware of any problems they want them to call. They have employees that are designated to take care of that issue.

The City Council and the city in general have really made a major effort over the past couple of years to really embrace the concept of recycling. He is sure that some of them have followed some of the debate that has occurred over the past couple of years with City Council. City Council for various reasons has agreed that recycling is really in everyone's best interest for sustainability from an environmental standpoint and also, from a Landfill standpoint, obviously to the extent in that when you have a recycling effort you are extending the life of the landfill. That is a very real problem for a lot of cities.

The other issue is that everyone embraces recycling but the difficulty is where you locate these things. They are very difficult to locate. He doesn't know if they are ever going to find any location, which is universally embraced. He is at least happy to see that he is not having a room full of people in back of him raising objections. As Staff has indicated, there has been an existing recycling facility on the adjacent site for quite a while. It seems to have co-existed fairly well with the adjacent neighborhood. He is not suggesting the recycling policy is not a reason in of itself to approve this particular Use Permit but he thinks it is one of the considerations that needs to take place or into account when you are considering this use. They believe there are a number of reasons why this particular use is appropriate.

Hudson Baylor has a very good track record. They have operated this site for the past 8 months and operated in a good condition. They are unaware of any particular problems. Mr. Curley showed on the Elmo where Hamilton Street and Ray Road is and the existing Hudson Baylor facility roughly about an 1-1/2 acre to 2 acres where the recycling activities are taking place. The area north of it is where they are seeking the Use Permit to expand. He showed where the steel facility is. The owner of the steel facility is leasing the 2 sites to them. In terms of adjacent uses there is obviously no opposition. This user is in support of the case. He showed the mini-warehouse and the 5-acre site, which is also owned by the steel company. To the south is Abitibi, which is also conducting recycling activities. He showed an Abitibi building and said again, when Erik was talking earlier about the 1980's and 1990's Use Permit to allow for recycling, that was on these properties. To his knowledge this site is the only area in the city that is actually permitted for recycling activities. His understanding in talking with the Solid Waste people and in talking with Jeff Kurtz this area is the only place in the city that has that particular permit. Again, from an operational standpoint the fact that it has existed here lends to itself to a minor expansion. The site is relatively isolated and insulated given the fact that this entire site here is about 38 acres. The entire site is zoned I-2 and they are about 800 feet to the residential properties on the east side of Hamilton. You have

existing facilities to the south, the steel facility to the north and then the mini-warehouses to the northeast. It is relatively insulated.

Mr. Curley said he wanted to talk about the trips because there is some confusion. The numbers take a little bit to get your arms around. He thinks when you are talking about traffic, the first notion that is important is that this total of approximately 3 to 3-1/2 acres is zoned I-2. If this were developed out with typical industrial use, you would wind up with a building or 2 buildings that would generate in the range of about 300+ trips per day. That is based on the Engineering data in terms of trips per 1000. You would have somewhere in the neighborhood of 300 trips that would be coming in and out of this particular site. If you approve this application, there will be somewhere in the neighborhood of about 30 to 35 extra trips that will be taking place at this intersection right now. They are larger trucks that are coming in but that is not to say that this was zoned as industrial and built out as industrial. From a traffic perspective, his position would be that they are really a fraction of what could occur traffic wise if this were to develop out with a different use. Those are sort of the rationale that they have given and as part of the Staff analysis for justifying this particular request. He knows these are difficult uses to locate. He doesn't know if there is ever going to be an ideal site. To the extent they can have a site that is insulated and going to have minimal impact, they think this is it.

One of the only issues they had with the Staff recommendation, which they would like them to consider, is stipulation no. 2 which is the time period. This sort of came up a little late in their discussions with Staff but the notion of stipulation no. 2 is that the Use Permit if it were granted would only be effective for one year. They would like to seek some relief from that and the reason being is that it is difficult for them to enter into contracts with users for extended periods of time when they only have this one-year period. He is unaware of any situation in any other city where the Use Permit actually expires at the end of the one-year. They have no problem with the concept of being subject to review by the city, to have the neighbors have input into the process during the one year of thereafter. Additionally, with the Use Permit, the Use Permit is irrevocable at any time if for some reason there was a problem in terms of project migration, which again they don't think it's a problem because of the five employees that are going to be on site. They had proposed some alternative language in lieu of that they would like you to consider. Essentially, the concept of them coming back to the Staff at the end of the one-year, conducting a neighborhood meeting to the extent that it is necessary, and if there are problems they can come back to the Planning Commission. To make them apply for a whole new Use Permit and go through that whole process not only is a cumbersome process in terms of taking 4 to 5 to 6 months, but again the difficulty is in terms of them just entering the contracts. Ironically, one of the contracts would be an RFP, which the City of Chandler has issued and this is one of the three sites that are bidding for that particular contract.

The language he came up with he tried to provide as much teeth as he possibly could to ensure that the safeguards Staff is seeking in terms of the one year would be taken into account. My language was after one year from the effected day of the City Council approval of the Use Permit, the applicant shall be required to submit to a Staff review and a neighborhood meeting. The report on the Use Permit operations occurring at the site, if the Use Permit operations are proceeding as approved, then no further action is necessary. The review in Staff's review reveals operational characteristics that were not intended or foreseen. The applicant and Staff shall address those cooperatively. Any use that is not approved by the Use Permit application shall require another application to be filed with the City of Chandler. They hope that goes to addressing the concern and they will try to answer any questions they have.

**CHAIRMAN FLANDERS** asked Mr. Curley to talk about access to the site? Mr. Curley said he believes when the second zoning case came in for the expansion of the Use Permit, access was requested to come in off Hamilton and exit off of Ray Road. That was actually one of the requirements. The owner of this property is a different ownership than what is owned up here. Right now the access can come through to Ray Road because the owner of the Superior Product site is allowing that access to occur. With the expiration of the Abitibi lease (they have gone recently through bankruptcy) with the Superior Products owners – that lease is coming to an end and through discussion they have had with Superior Products this access is going to be terminated. Essentially they don't have the option of going through to Ray Road anymore and frankly when Hudson Baylor first came to him 6 months ago, he was unaware of some of the involvement between the different properties. Erik indicated they originally filed this with the assumption of they could continue going through. They were then made aware of by the owners here that was not a right they had. They had to come back and reapply. All access has to take place at the entrance off of Hamilton Street. All access for this property north of the Superior Products property is going to have access at this point right now because otherwise they have a landlocked parcel. They have no right to go through his parcel. They would have preferred going through there. He understands Superior Products has got their property rights and they have every right not to let them go through there. The reality is these parcels up here are landlocked without the access. **CHAIRMAN FLANDERS** asked if the access is being provided by the steel company? Mr. Curley replied that yes the steel company owns this access right now and there is an easement benefiting these properties here to be allowed to use that 30-foot drive. **CHAIRMAN FLANDERS** asked if the Hamilton Street entrance/exit is the full access for the steel company right now? Mr. Curley answered yes it is. **CHAIRMAN FLANDERS** said so basically they are adding the additional traffic for the exiting of the recycling plant. Mr. Curley said essentially what you are doing is allowing the extra access and instead of just having it one way on this particular site, now there will be a two way. He believes right now this site has about 8 trips per day. There use to be 8 trips out, now there are 8 trips in and out. That is how they came to this number; roughly an additional 20 trips on that driveway.

**COMMISSIONER HARTKE** said so in essence what he is asking is instead of the one-year review there is a Staff review, a neighborhood review and if there are no issues that come up, then this would continue. If there were some problems raised on either end, then this would go back to P & Z as well as Council. Is that correct? Mr. Curley said yes and he is open to any suggestions the Commission might have. The Use Permit is irrevocable at any time and for some reason this property was not being operated up to snuff and the city received a number of complaints, his understanding is the city could automatically schedule a revocation of the Use Permit. That is the first safety net the city has. Again, they are not trying to shirk their responsibilities of extending their arms to the neighbors and having meetings with them and Staff and following up with them. If you were a supplier of these materials and you were going to enter into contract with them and they can't promise you anymore than one-year of being able to utilize the site, contractually it ties their hands. They haven't had much of a chance to discuss this with Staff because it is an issue that sort of popped up at the eleventh hour. They have no problem with the review, scrutiny, etc. – it's just the one-year that presents contractual problems.

**CHAIRMAN FLANDERS** asked that in hearing what the verbiage is does that provide Staff with an annual review? Mr. Curley said that would be fine. **CHAIRMAN FLANDERS** asked earlier when they were talking about this and going out and checking the site, if it is on an annual basis, does that work with Staff as far as them going out? **KEVIN MAYO, ACTING PLANNING MANAGER** stated that the simple answer is they will accommodate however this Use Permit is ultimately approved. Typically, they like having that one-year expiration. They don't have the manpower to police every Use Permit that is out in the city and all the other rezonings. They do rely on citizen involvement and neighboring property owners as their eyes and ears. That one-year is always there to allow them to go back out to those neighbors and renotice them and ask them if this has been operating o.k. Have they noticed it? However that ends up occurring their goal is not to bird dog somebody and/or force them out of business. Their goal is that they operate in conformance with how they have represented themselves. If it is an annual review, however they craft the language that has teeth and it isn't something that just floats out there. They do have a tickler file for our Use Permits that are on expirations and they notify them 2 months in advance. They will figure something out in this system to notify them that they are going to be doing the end review and we are going to require them to notify the neighbors again and hold another neighborhood meeting. They will work out the details however this is ultimately approved. Typically, they like the one-year, two-year or however many years it is because it is a formal process. **CHAIRMAN FLANDERS** stated that ultimately if there are real problems with the user after the first year that will allow them to come back to Commission and Council to review that. Mr. Mayo said the only thing he struggles with is that it becomes very much a judgment call of what is something that requires coming back to Planning Commission and what is something that is not. Is it one neighbor that stands up and says there is trash? Is that then the trigger? It will be a careful analysis at that point but they will accommodate however it is approved.

**COMMISSIONER RIVERS** said it occurred to him that if they change this to a 3-year Use Permit on it with this annual review that might accomplish the same thing. Does that make sense? Mr. Mayo wanted to know if he was asking if a 3-year time condition that also has an annual review? He said that is another option. **COMMISSIONER RIVERS** asked if that would accomplish the same thing without as much red tape? Are they cutting off city revenue by doing that? Mr. Mayo said the Use Permit has never been their cash cow when it comes to planning fees. Either way, if it comes back in a year or if it is an annual review, their goal is to make sure they are operating in conformance and that things that were not foreseen haven't popped up and have a channel for the citizens to voice concerns. As long as that avenue is still accomplished, whatever it is titled it doesn't really matter.

Mr. Curley said they have no concern or fear about the operations being a problem in the neighborhood. They are willing to agree within every 6-months going back and having a neighborhood meeting just to see if everything is up to snuff - just as long as that expiration doesn't occur at the end of the year for contractual purposes.

**COMMISSIONER VEITCH** said they consider Use Permit extensions all the time on their 1, 3 and 5 practice while people approve their ability to operate under the conditions. Unless he is mistaken, the application for the extension stays the expiration. Applications get here after the technical expiration date of the original permit on a fairly regular basis. Mr. Mayo said that is correct. Once you file your application they don't then start proceeding forward with enforcement. It does stay that. He doesn't necessarily know that the applicant is arguing that that is the problem. It is the fact that there is that expiration date hanging out there. **COMMISSIONER VEITCH** asked how is that different than the city's ability to revoke this Use Permit at anytime? It strikes him that may be a distinction without a difference. Mr. Mayo said he thinks the difference is that it is an operational thing. If they don't operate in conformance at any point, they could have that revoked versus at a year it is coming up for revocation unless they file a new one and they have to do that. Could they keep operating anyway? Yes. **COMMISSIONER VEITCH** said he doesn't think it is a particular threat to the operation and he is having trouble finding a reason to treat this one in a manner different from all of the others.

**CHAIRMAN FLANDERS** went to the audience and called the names of people that submitted speaker cards.

**JOHN YU, 367 E. SHEFFIELD**, stated he is speaking for a lot of people. He is on the Board of Directors for the homeowners association for two neighborhoods. One is the Festiva Court, which is the neighborhood north of the expansion area. There are 150 homes in that neighborhood. To the east of Hamilton Street is a neighborhood called the Provinces, which consists of 1800 homes. He is on the Board of Directors for those as well. The first point he wants to make is he is a little bit at a loss as far as the statement the attorney for Hudson Baylor made saying there has been no objection to this expansion. He stated clearly they have unanimous objection of all those homeowners.

There is no quorum for them to speak up and this is their first opportunity to raise their objections. He said he has several points he just wants to make with the Planning and Zoning Committee on behalf of all of the homeowners there.

The operative word for them is expansion and traffic. When he bought his home in the Festiva Court 4 years ago, they knew there was a recycling center there. They brought tin cans and had them recycled and that was a very noble purpose. There was absolutely no acceptance at that time to see a recycling center built that close to our neighborhood.

They have said there is not that much traffic per say, but their issue is the type of traffic. They are talking about semi-trucks and 18-wheelers going down Hamilton Street. For the refuse trucks to go down Hamilton is not that big of an issue. But big rigs going down Hamilton is a big issue with noise and other things. Another thing that bothered him was they were told there would be 34 ingress/egresses going off of Hamilton from this site. Already before the permit is approved, Hudson Baylor is already alluding to potentially 300 in/out trips per day. That is a magnitude of 10. What was told to the neighbors is not exactly what is the intent by Hudson Baylor. They are also concerned about the safety of children. There are kids south of Ray that ride their bikes up and down Hamilton to get to that new park that was built on Knox and Hamilton all the time. It doesn't matter if the traffic is on weekdays, during when school is out these kids are riding their bikes on Hamilton to get to the park. They also walk. His concern is that with all of these semi trucks going up and down that street, who is going to look out for the safety of these kids? Some of those kids are his and his neighbors as well. He was told these semi-trucks are not going to be able to make that turn into that ingress/egress. That is too large of a turn for them to do out of a short and narrow driveway. In regards to garbage and infestation, the attorney for Hudson Baylor said they saw their site in Phoenix and there was no garbage. Of course they can say that about Phoenix. He asked them to visit the site in Chandler and he will produce at the City Council meeting pictures of that the neighborhoods have taken over the last 4 years. They had other issues with the refuse that flows into this open area and into their property and so forth and no one is doing anything about that. They had a wall built between their neighborhood, Festiva, and the railroad tracks. One of the reasons they built that was to keep refuse out of their private properties. With the gusty windy days and the expansion plans with open areas without cover and not in contained buildings, they can only expect more refuse to be blown into their properties and adjacent areas. The fourth issue they have is the permits. The bottom line is it is not specific enough. There is no limit on the amount of traffic on Hamilton and no limit on the amount of expansion. Already, Hudson Baylor is trying to remove the one-year permit. That is their only safety clause. Obviously, people don't attend some neighborhood meetings. If they are going to use that as a barometer of whether people object or not, that can go without saying. People don't know that is their forum, their only forum to object.

It is clear the intention is to expand. They have nothing against recycling. That is a great and noble cause. He thinks there are other alternatives. The fifth issue they have is they are all concerned about decreasing property values. He also holds a real estate license

and he understands the issues of homeowners that were promised certain things across from the city dump at McQueen and Queen Creek. All they can do is imagine their situation for the recycle center right in the middle of a residential area. You can imagine what that would do to already declining property values. Those were the 5 points he wanted to make to Planning and Zoning as far as allowing this permit to go through without further concern for the people that actually live there, all in the 2000 homes there. They are just north and east and they are not even talking about people to the south. The type of traffic, the risk to the children going up and down Hamilton, the garbage and infestation that already blights their neighborhood and if they are going to grant this permit, please put some restriction on it. Really consider the already demoralized homeowners who are facing declining property values. Putting a transfer station with a major expansion will negatively affect the property value. It will hurt a lot of your constituents here.

**CHAIRMAN FLANDERS** asked how long had the residential development north of this site been there? Mr. Yu said he bought there about 4 years ago. It started shortly before that – between 4 and 5 years. **CHAIRMAN FLANDERS** said so it has been there since 2004/2005. He said he was just curious to see when it all went in there.

**COMMISSIONER RIVERS** asked Mr. Yu to move the map on the Elmo so they can see this neighborhood really better. He asked Mr. Yu to show him where he lives. He said when Mr. Yu was talking, he mentioned something about the open area between the steel company and the fence for their neighborhood. Mr. Yu said yes and showed the green belt areas. They have refuse that blows over. They put a wall up there. Refuse blows into their property regularly. If you check this area here, there is significant refuse being blown in this field here. **COMMISSIONER RIVERS** asked if he feels if the refuse in that area is purely coming from this recycling plant. Mr. Yu said he doesn't know who else produces plastic, papers, etc. **COMMISSIONER RIVERS** said if you have refuse coming into their neighborhood from north of the steel plant, he doesn't know what is up on that side of that building because he didn't get up there. He said he mentioned something in his discussion about other alternatives to having the recycling plant here. What did you have in mind? Mr. Yu replied that he was told that the property south of Hudson Baylor, the current property that is under Chapter 11, the owner of that land has put in a bid with the city to take over its operations. That to him is an alternative where they will have their ingress and egress off of Ray Road and not have to force and ingress/egress off of Hamilton Street. If the city goes with them, they can maintain business as usual. **COMMISSIONER RIVERS** said he might have to ask Mr. Curley but he thinks what he told them was the ingress/egress off of Ray Road is controlled by the company to the south of Abitibi and has nothing to do with Abitibi. He will check with him.

**PHIL BACH, 515 E. IRONWOOD DRIVE**, stated he is a resident at Festiva Court and lives on the third street in the community. They went to their open meeting. Right after the meeting they went out and he got his camera and this is a different type of year that we don't get as much wind. They did have a few fairly windy days because the change in

the weather. The whole field down near where the shopping center is was cluttered all the way across. Where it is coming from he doesn't know. Hudson Baylor says it is coming from the other plant that they don't maintain. That is a nice easy answer for anyone to say that it is somebody else's fault because there are two of them there. He feels that if they are going to live in the neighborhood when they come to July and August when they have their monsoons, the winds blow and paper goes everywhere. He has called their maintenance people to come in who take care of their area and clean up trash that comes from there. They have to pay them extra to do that. This isn't right. Now they are going to prove D.R. Horton to build more homes over there. The first two years they lived there they didn't have any of the trash. Now the trash is everywhere – every time there is a windy day. He stated the Planner said he hadn't gone up there and looked. He said to go up Arizona Avenue and he can see. It is not stuff that can come from the grocery stores in those areas. In fact, he even drove behind them and all their bins are closed. He lived in Phoenix and has been there since 1958 and he has never seen so much trash in a neighborhood area and open fields as he has seen here. The city wants to prove for neighbors to come into the area and they want their tax base. They have been here longer – they agree. His problem is that they cannot have continued trash blowing all over without some kind of repercussions coming against the company or companies that are causing it. Since they are both trash companies, he thinks they are both to blame. Now under the new proposal, the planner, Erik Swanson, said they have some type of limitation where they can come in and inspect them and by 5:00 p.m. in the evening everything will be cleared off even though they will still have trucks going in and out. That is acceptable. If it comes into their neighborhood, who pays for it? Are they responsible for their problem? He said John Yu already covered the heavy traffic. He said there are a lot of young people with young children who are starting to ride their bikes. There is a bicycle lane right on that side. It is used quite heavily.

He is not against recycling. He believes in it and has done it for years. He doesn't even throw trash down his garbage disposal. He believes this is the way they must go. He is glad that the City of Chandler is so adamant about recycling. His idea is that they have to protect their neighborhood and the other neighborhoods and to allow them to come into this area. If they don't, they are defeating the purpose for which they are encouraging them to come in here.

**ED BULL, 702 E. OSBORN ROAD, PHOENIX**, stated he is representing Superior Products. Superior Products owns the pink property, the blue property and the green property represented on the map shown on the ELMO. Superior Products and other companies associated with it are obviously not anti-recycling. They have been in the recycling business. They are in the business. In fact, a related company is a bidder on the city bid process that was discussed earlier this evening and they want to fully disclose that. Superior Products concern with this application is focused on what is really before them is a request for an outdoor transfer station. They appreciate that concrete walls on 3 to 3-1/2 sides and netting surround it. But it is not in a building and they do not know where the trash necessarily is coming from that some neighbors have commented on and he doesn't think anybody is pointing the fingers at them or in any other particular

direction. They see the existing facility as being designed as being one that was occurring inside of buildings for processing. They recognize that it has expanded some recently to transfer activities. That is of concern to Superior Products. They aren't anti-recycling and they recognize it's I-2 property. In fact, they hope to provide additional recycle processing on this pink property. They see a very real difference between processing inside of a facility that is under roof versus and outdoor transfer station. Those are his concerns and they appreciate their consideration.

**HEIDI PARTLOW, 539 E. ORCHID LANE**, stated she is also a resident of Festiva Court. She showed where her home is and said it fairly close to the facility. The additional issue that hasn't been brought up previously that she is concerned about is noise. There are a lot of front load and heavy types of equipment that have signals on them so quite early in the morning you can hear the truck traffic from her backyard. When you have the windows open or if it is calm outside or quiet outside you can hear the truck noise. Her concern is about any increase in that amount of traffic that would cause that type of noise maybe because you have to reverse and take a different route out back onto Hamilton Road. Her other concern is also about the additional type of traffic. She wasn't aware that it wouldn't be just the type of recycling truck that it would be 18-wheelers. That is new news to her. If she can get confirmation of that tonight, it would definitely affect her opinion. She also attended the neighborhood meeting here with Hudson Baylor and they were also very respectful and they had a lot of communication but that wasn't something she learned about. It was the first neighborhood meeting and she did attend that. She didn't oppose it at that time until she learned about the traffic because she has a five year old who is learning to ride her bike and they do go to the park that is up the street. That would be her concern – the traffic and the bike lane that is on that road. Additionally, she sent her comments to Erik earlier this week so that he could take that review. She was glad to see that there was a one-year review put on this permit so there would be a chance for the neighborhood to come back and comment on anything they might have concerns about. She would hope that they would continue to support that 1-year period of application and permit. She wondered if the permit would potentially contain any information about expansion of hours or expansion of the truck traffic. If they approve for a certain amount of truck traffic on Hamilton Street, would the applicant then be able to change that at any point or would the applicant have to go through Commission again.

**COMMISSIONER RIVERS** asked Ms. Partlow how long she has lived in her home? Ms. Partlow said she purchased her home in October of last year. **COMMISSIONER RIVERS** said she hasn't been there quite a year yet? She said she had not. **COMMISSIONER RIVERS** asked her if she is noticing new truck noises or is this truck noise that has been there since she moved in? Ms. Partlow said it was there she just didn't live there previously so she didn't know about the noise until she had already purchased the home. **COMMISSIONER RIVERS** asked so she is not concerned that there is truck noise, she just doesn't want there to be more truck noise? Ms. Partlow said yes.

**CHAIRMAN FLANDERS** asked the audience if there was anybody else who would care to speak in regards to this. There was no one.

**MR. CURLEY** said they are very sensitive to the concept of any debris migrating over the site. They were absolutely unaware of this situation. It has never been brought to their attention and has not been brought to their predecessor's attention, especially with the city and he has talked with Solid Waste people as well as the Staff. They have not indicated that has been a problem. That doesn't mean that there hasn't been some migration off of the site. The first thing they are going to do when they walk out of here is give the individuals here and the homeowners association their on-site managers telephone number and if there is a problem they want to be notified. If they created the problem, they will address the problem. That is not an issue in their mind. If they had known about it earlier they would have reacted to it. They have had two neighborhood meetings and again, in terms of notifications they notified 100's and 5 or 6 neighborhood associations. There wasn't any lack of notification so people if didn't participate it wasn't through lack of effort on their part. Having said that at the end of this meeting both the individuals who spoke today if they give them their contact information they will give them a managers name and number. Again, they want to be notified if there is a problem. He can't say that nothing migrates off of the site. That is the nature of these facilities. If you visit them, there are obviously paper products there and they account for every piece of product on the site. However, if there is a problem, they want to know about it.

Regarding the trailers he wanted to make sure that Mr. Yu understands that the trucks that are arriving at the site are essentially garbage trucks. They are city trucks coming to the site. There maybe six 18-wheelers a day that come to the site where the material is placed onto these 18-wheelers. Then the tarp is wrapped around them and then they leave the site. He thinks Mr. Yu was confused when he mentioned the number 300. His comment was that if the 4-1/2 acres that they are talking about were developed out with the typical industrial use. That typical industrial use, that warehouse type of use, could easily have larger trucks associated with it. That use would generate the 300 trips. So the number of trips they told Mr. Yu at the neighborhood meeting which is roughly in the 34 range. That is an accurate number. That is the number of trips they are talking about. His comment was when you contrast that number of trips to what might happen under the existing I-2 zoning where literally 10% or 1/10 of the amount of truck traffic that could occur under that other use.

Regarding Glenn's comment about the infestation stipulation, they don't have a problem with that and they are amenable to whatever the language would be. He didn't know if they could craft it there tonight but certainly by City Council he doesn't have any problem to agreeing to that because it is not a problem given the nature of the type of material that will be here. Again, it is not food waste and garbage waste.

He believes numbers he heard on Hamilton was the capacity of roughly 10,000 and right now it is at 1500 – 2000 trips. Certainly, they are not anywhere near the capacity of that

street. He understands the neighbors concerns are the nature of the vehicles that are going to be arriving here. There are going to be trucks arriving into this I-2 property whether it is them or whether it is somebody else. In regards to property values, again, the Abitibi use and the use that is on the Superior Products have been in existence since the 1980's and early 1990's. The two neighbors are beautiful neighborhoods. Yes, this is a use that you normally wouldn't associate with adjacency to a neighbor but it has been in existence for a long time and he thinks these neighborhoods have flourished despite the fact that this use has been in so he doesn't really see the negative impact that is being reported.

In terms of wanting to make sure in terms of comments that Ed Bull made. Ed is a very good friend of his and he respects him enormously. He doesn't say that about every zoning attorney but he does Ed. They are not doing anything different on this site and what is being done on the site here right now. He has photographs of the materials that are outside the buildings on Ed's clients site. If you drive around to the other recycling facilities in the city which he has and the City of Phoenix, that is the nature of these uses. They take place outside because you are loading these materials onto trucks. They are not asking anything to be done on this site that doesn't already exist.

In terms of noise they are talking about 35 to 36 acres of industrial sites here and he can't say there is no noise associated with this area. There are obviously trucks in this area but the primary uses they are talking about are garbage trucks that are coming there. He can't dispute there isn't any noise but that is the nature of having an industrial use. Again, keep in mind this is a 2-acre expansion - something that is relatively insulated from a physical standpoint.

**CHAIRMAN FLANDERS** asked what is the timing as far as trucks starting to leave – when does the traffic start and end? Mr. Curley said he wanted to make clear that the trucks that come to the site are not Hudson Baylor trucks. They are basically municipal trucks that are coming to the site. His understanding in talking with the Solid Waste people of Chandler is that the trucks are typically not arriving to the site until about 7:00 a.m. in the morning. They do open up earlier. There are a couple of employees that come on site earlier to make sure the site is swept up and prepared for the day but the trucks are basically coming from roughly 7:00 a.m. until 5:00 or 6:00 p.m. at night. It averages about 3 and hour. **CHAIRMAN FLANDERS** asked in regards to the size of the trucks, they are garbage trucks coming and 18-wheelers leaving? Mr. Curley replied that when there is enough product that is on the site to justify transporting that to a sorting facility, the 18-wheelers come in and that activity takes place roughly 6 times a day. **CHAIRMAN FLANDERS** said o.k. between the garbage trucks and the 18-wheelers there are roughly about 34 trips? Mr. Curley said yes.

**COMMISSIONER RIVERS** asked Mr. Curley currently how many semi-tractor trailers enter and leave this facility during the day? Mr. Curley replied 3 to 4. **COMMISSIONER RIVERS** said so afterwards it is going to be 8 so that is like 4 more. Mr. Curley said there would be 2 additional ones. Mr. Curley said one of the reasons for

this expansion is that the existing 2-acre site is a relatively small site. If you go out there it is a very cramped site right now. By industry standards it is a very difficult site to operate. By getting the additional site it does allow them to have a little more capacity but the primary motivation is it gives them some breathing room, which they don't have right now. **COMMISSIONER RIVERS** asked why is there not going to be an enclosed building for this transfer station? He said he remembers dealing with the panic over the waste management facility that is going to open across the street from Tumbleweed Park and how that thing is totally enclosed and it has 2 levels. They drive the semi-tractor down to the bottom level and there is a hole in the floor and they just dump the contents of the collection trucks through the floor into the semi and then scrape whatever misses the hole into the semi. Then they tarp it over and it is on its way. Is there a reason why they didn't go that way? Is it there is not enough revenue to pay for that? Mr. Curley said he thinks the facility he is talking about is for garbage waste. There is a difference in product. This facility, again, if you look at the other facilities in the Phoenix area, are typically on slabs and the reason is because they are not only having trucks dumping out but then you have to collect the materials and load it back on. Either you are going to build a very, very large structure with a large group but still the front of it is going to be open in order to get the maneuverability of the pay loaders in and out. From their perspective they think it makes more sense to have essentially just a corner of the facility open. Then the pay loaders actually go into the facility and the combination 10-foot wall and netting is a better way of trapping the migration as opposed to just having the whole front of it open. Essentially, if you go out to the other facilities now where it is just on a slab that really does promote migration. Here you are essentially having an enclosed structure on 90% of the enclosed part with the exception of the one opening and with the netting they think that effectively controls migration.

**COMMISSIONER HARTKE** asked if there was any fencing around the property? Is there any hurricane netting or is there something that would catch the material that obviously is going to fly from anywhere. Hurricane netting or anything that would perimeter the property could catch the normal wind blown material. He has been in Arizona long enough to know what dust devils do and can carry things quite high. Is there something that could help to keep anything that escapes the normal processes of recycling on property? There is obviously a wall around the perimeter of the property right now but that doesn't really go to address your concern. His discussions with the client regardless of what structure you have, whether you have sliding doors in an enclosed structure, those doors are going to be open at certain points when you are doing the loading and unloading at the facility. The most effective way of controlling the property is frankly to have people on the ground collecting the litter. They have 3 to 5 employees. He doesn't know whether there is a system that you really could develop here – maybe create some netted dome. He thinks the key is having people on the ground and picking it up. That is the system they are going to employ there. **COMMISSIONER HARTKE** asked if the wall perimeter is around the entire steel part? Is it a fairly large enclosed area and there is a lot of room for movement? Mr. Curley said there is a wall that is along Hamilton and a landscape buffer on the east side of that wall and then there

is a wall along the north property line north of the steel property. There isn't any separation to his knowledge between them and the steel property.

**WILL HERZOG with HUDSON BAYLOR** stated there is on the property next to the adjacent vacant site to the east of their property, two chain link fences to also help contain that material. There is also walling between their site and the TW Steel site to the north. There are also fences along the railroad side. **COMMISSIONER HARTKE** asked if there was some type of fencing on the west and east sides? Mr. Curley said he was sorry he thought he was talking about the perimeter. He said Will is correct and there is hurricane fencing here as well as along the north property and along the railroad.

**CHAIRMAN FLANDERS** said the one item that bothers him a little bit is the migration of materials and obviously he has done something. There obviously is product that is getting outside either their area or the area to the south. He stated he was going to throw out an additional stipulation stating that the applicant is to work with Staff to prevent migration of recycle materials from site. That is basically something there that if there is a problem other measures will have to be taken for that. He just wanted something in here that says that if there is a problem you are going to take care of it. Mr. Curley said that was perfectly acceptable.

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

**VICE CHAIRMAN CASON** said he agrees with Commissioner Veitch although he can understand from the applicant's position that they are unlike a bar that goes through the 1-year, 3-year, 5-year because the people that own the bar don't sign a contract with their patrons in order to use that bar for the next five years. It would generally be the same with homes that people are caregivers with. He is a stickler for consistency and he thinks that whenever you are expanding something with the potential to effect the surrounding neighborhood that one of the things that makes the City of Chandler as great as it is, is that they put those kind of controls in place. He generally supports the expansion only because the position that he usually takes is to preserve the areas around railroad tracks and our commercially designated areas to keep them commercially designated. It would be somewhat disingenuous to him to change that position here when he holds that position everywhere else up and down the railroad tracks throughout the City of Chandler. He can support it but he can only support it for the year as written in by Staff.

**CHAIRMAN FLANDERS** asked Erik Swanson to add that stipulation. Mr. Swanson, City Planner, said what he currently has as condition no. 6 is:

The applicant is to work with Staff to prevent migration of materials from the site.

**COMMISSIONER RIVERS** said he wanted to give acknowledgement to the neighbors and thanked them for coming this evening. He doesn't know how much of an issue loss of property value will be because this facility was there before the homes were built, and they had even among the speakers this evening somebody who bought a house in that

area recently with this facility in existence. He doesn't think that a minor expansion of this facility and even if they end up with a city contract, they would have it instead of Abitibi, which is already there or perhaps Superior would have that contract. The amount of business in that area is going to be about the same. He doesn't think it is going to increase exponentially and he doesn't think it is going to have a major effect on property values in the area.

**MOVED BY VICE CHAIRMAN CASON** to approve UP08-0067 HUDSON BAYLOR CHANDLER with the new and existing conditions as read in by Staff, seconded by **COMMISSIONER VEITCH**. The item passed unanimously 7-0.

**CHAIRMAN FLANDERS** asked Erik Swanson when this was going to City Council? Mr. Swanson replied this was going before City Council on May 28, 2009. **CHAIRMAN FLANDERS** told the neighbors that would be their next stop on this item.

6. DIRECTOR'S REPORT

Mr. Mayo said there was nothing to report.

7. CHAIRMAN'S ANNOUNCEMENTS

**CHAIRMAN FLANDERS** announced that the next regular meeting is June 3, 2009 at 5:30 p.m. in the Council Chambers, 22 S. Delaware Street, Chandler, Arizona.

8. ADJOURNMENT

The meeting was adjourned at 6:50 p.m.

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Michael Flanders, Chairman

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Jeffrey A. Kurtz, Secretary