

# *unofficial*

MINUTES OF THE REGULAR MEETING OF THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, held in the Council Chambers in the Chandler Library, 22 S. Delaware, on Thursday, August 13, 2009, at 7:00 p.m.

THE MEETING WAS CALLED TO ORDER BY MAYOR BOYD W. DUNN.

The following members answered roll call:

Boyd W. Dunn	Mayor
Bob Caccamo	Vice-Mayor
Rick Heumann	Councilmember
Trinity Donovan	Councilmember
Matt Orlando	Councilmember
Jack Sellers	Councilmember

Absent & Excused: Jeff Weninger Councilmember

Also in attendance:

W. Mark Pentz	City Manager
Rich Dlugas	Assistant City Manager
Pat McDermott	Assistant City Manager
Mary Wade	City Attorney
Marla Paddock	City Clerk

INVOCATION: Mayor Dunn

PLEDGE OF ALLEGIANCE: Councilmember Orlando

SCHEDULED PUBLIC APPEARANCES:

None.

UNSCHEDULED PUBLIC APPEARANCES:

None.

CONSENT:

MOVED BY COUNCILMEMBER ORLANDO, SECONDED BY COUNCILMEMBER SELLERS, TO APPROVE THE CONSENT AGENDA WITH ITEM 38 (HILL ACADEMY WIRELESS FACILITY) PLACED ON THE ACTION AGENDA.

VICE MAYOR CACCAMO stated he would vote nay on Item 27. COUNCILMEMBER HEUMANN stated he would vote nay on Item 30. MOTION CARRIED UNANIMOUSLY (6-0).

MAYOR DUNN announced a speaker request for Item 11 (Airport Fees). He expressed his thanks to staff and the stakeholders for working on this item.

1. MINUTES:

APPROVED, as presented, Minutes of the Council Special Meetings of July 27 & 30, 2009, and the Council Regular Meetings of July 27 & 30, 2009.

2. CITY CODE AMENDMENT: Chapter 62 Ord. #4159

ADOPTED Ordinance No. 4159 amending Chapter 62, Sections 62-415, 62-416, 62-417, 62-450, 62-570 and Regulation 62-350.3, of the Chandler City Code, and establishing effective dates thereof, relating to conforming changes to the Chandler Tax Code.

3. WIRELESS TELECOMMUNICATIONS USE AGREEMENT: CINGULAR Ord. #4160

ADOPTED Ordinance No. 4160 authorizing the first amendment to the Wireless Telecommunications Use Agreement with New Cingular Wireless PCS, LLC.

4. POWER DISTRIBUTION EASEMENT: Salt River Project Ord. #4166

ADOPTED Ordinance No. 4166 granting a 1,440 square foot no-cost power distribution easement to Salt River Project (SRP) to provide new electrical power service to a new streetlight being installed on the northeast side of Alma School Road near Lake Drive.

5. IRRIGATION EASEMENT: Salt River Project Ord. #4168

ADOPTED Ordinance No. 4168 granting a 39.97 square foot, no-cost irrigation easement to Salt River Project (SRP) near the SWC of Dobson and Frye roads.

6. REZONING: Sante Chandler Ord. #4174

ADOPTED Ordinance No. 4174, DVR09-0011 Sante Chandler, rezoning from AG-1 to PAD Multi-Use for Assisted Living, Nursing and General/Medical Office uses on approximately 9.7 acres at the SEC of 94<sup>th</sup> and Fairview streets with PDP on approximately 5 acres for the construction of a transitional rehabilitation center.

7. REZONING: Blue Star Gateway Ord. #4175

ADOPTED Ordinance No. 4175, DVR09-0009 Blue Star Gateway, rezoning from AG-1 to PAD with PDP for a new two-story office building on a 1.1-acre site at 99 E. Willis Road east of Arizona Avenue.

8. RIGHT-OF-WAY VACATION: Appleby Road Ord. #4169

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4169 authorizing the vacation of a portion of right-of-way on Appleby Road, west of Arizona Avenue near Hamilton High School.

The City of Chandler received a request from Shea Homes and the Chandler Unified School District to vacate a portion Appleby Road near Hamilton High School. A bus bypass route was previously constructed to increase the efficiency of the bus traffic within and from Hamilton High School by minimizing turning movements onto public roadway. As a result, the subject portion of Appleby Road still remains, but is no longer used as roadway.

Once the portion of roadway has been vacated, Shea Homes will enter into a donation agreement with Chandler Unified School District.

Real Estate has contacted the appropriate City Departments and outside utilities. Each has reviewed this request and there are no objections.

9. POWER DISTRIBUTION EASEMENT: SRP Ord. #4170

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4170 granting a no-cost power distribution easement to Salt River Project (SRP) to provide power for pathway lighting on a portion of the Paseo Trail at 1857 E. Frye Road.

10. ANNEXATION: SEC Loop 202 and Consolidated Canal Ord. #4173

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4173 Annexation of approximately 1.19 acres at the southeast corner (SEC) of the Loop 202 and the Consolidated Canal.

The site is an aggregation of two parcels that are remnant pieces remaining from the canal alignment and the ADOT right-of-way acquisition and are incorporated into the Chandler Airport Center Master Plan. Chandler Airport Center CAC, Inc. owns the properties and upon annexation, will request the properties to be rezoned to Planned Area Development (PAD) in conformance with the Chandler Airport Center Master Plan.

The subject site is currently zoned R-43 within the County. Directly north of the site is the Loop 202 freeway. Directly west and curving to the south, is the Consolidated Canal. East, adjacent to the site, is vacant land zoned PAD as part of the Chandler Airport Center Master Plan. The Chandler Airport Center Master Plan is part of the larger Chandler Airpark Area Plan and designates the site as Commercial/Office/Business Park.

11. AMENDMENT: City Fee Schedule Res. #4311

Airport Commission Chair CHELLE DALY thanked city staff and the Airport Alliance for working together on this item. She noted that only an elite number of general aviation airports are self-sufficient. While some other airports are 90% subsidized by their communities, Chandler is 80% self sufficient – up from 45% self sufficiency in 2002. The economic impact the airport has on Chandler with over 200 employees contributes much more to the general fund than the general fund contributes to the airport. She thanked the Council members for their support.

COUNCILMEMBER ORLANDO added his thanks to those parties involved.

ADOPTED Resolution No. 4311 amending the City Fee Schedule for Airport rates and fees.

Staff conducted research on current market rates charged by both public airport entities and private entities located at airports. Another important consideration was a goal of reducing and ultimately eliminating financial assistance to the airport from the General Fund. The ultimate goal is for the airport to be fully self-sufficient in terms of finances for its operating and capital needs.

Staff met with airport tenants and users in February, April and May to discuss the proposed rates and fees. Several revisions of the proposed rates and fees were discussed. This included a four-year plan to incrementally implement changes to the rates and fees. This phased plan was designed to achieve full financial self-sufficiency within the four-year period. However, it was

determined to adjust only this year's rates and fees with future changes to achieve self-sufficiency with four years to be discussed in the subsequent yearly updates.

The proposed rates and fees are projected to generate an estimated \$935,000.00 in revenue in FY 2009/10.

The Airport Commission voted unanimously to recommend approval of the amended fees at their meeting of May 20, 2009.

12. INTERGOVERNMENTAL AGREEMENT: Dept. of Public Safety Res. #4323

ADOPTED Resolution No. 4323 authorizing an Intergovernmental Agreement (IGA) with the State of Arizona through the Department of Public Safety (DPS) for the Chandler Police Department to participate in the Arizona Vehicle Theft Task Force program.

The DPS will pay Chandler 75% of the salary and 100% of the pre-authorized Task Force-related overtime of the assigned officer. DPS will assign and maintain a vehicle to the assigned officer. The Police Department will pay 25% of the officer's salary. Prior to participation, the Police Department was paying 100% of the office's salary.

13. INTERGOVERNMENTAL AGREEMENT AMENDMENT: ADOT Res. #4325

MAYOR DUNN asked if there was stimulus money available on this project. CITY MANAGER PENTZ said he believed there was stimulus money available. Mayor Dunn noted his concerns with vandalism on the lighting along the trails and asked if future design could take this into consideration. COMMUNITY SERVICES DIRECTOR MARK EYNATTEN said there has been substantial loss of wiring along the Paseo and in other parks. Installation of voltage regulators has helped deter this. He said that solar is being looked at as an option and will be included as an alternative in future bids.

COUNCILMEMBER HEUMANN asked if solar lighting was being placed along the Western Canal. PUBLIC WORKS R.J. ZEDER confirmed that the entire 3.5 miles would be lit with solar lighting. Councilmember Heumann complimented this amenity that will allow access from Riggs Road over to the Tempe area.

ADOPTED Resolution No. 4325 amending the Intergovernmental Agreement (IGA) with the Arizona Department of Transportation (ADOT) for funding of the development of phase three construction for the Paseo Trail along the Consolidated Canal at an estimated cost of \$411,610.00.

In 2002, Council approved an agreement for the development of phase three construction of the Paseo Trail along the Consolidated Canal. The new agreement includes \$750,000.00 in American Recovery and Reinvestment Act (ARRA) funds to supplement City funds for the construction of the project. The agreement also refunds the City for previously paid match funds received by the State for said project in the amount of \$234,218.00.

The use of the canal rights-of-way for recreational purposes has been a goal of the City for many years. The Parks and Recreation Master Plan addressed the use of the canals, specifically the Consolidated and the Western Canals for use as paseos, a linear pathway system for hiking, biking, jogging and equestrian activity. The use of SRP facilities for these types of uses is common throughout the valley. The resultant open space system will accommodate both passive

and active recreational uses while serving as a complementary linkage to the parks along the corridor. The section of the Consolidated Canal running through Chandler is unique to the valley. Unlike the majority of the canals, no power line easements run along its banks and it is primarily bordered with agricultural lands and residential development.

The ARRA/Recovery Act funds will be used for the construction of the project including the construction engineering and administration costs.

14. PRELIMINARY DEVELOPMENT PLAN: Noah's

CONTINUED TO AUGUST 27, 2009, as requested by Staff, Preliminary Development Plan PDP08-0004 Noah's, for a commercial multi-purpose building on a 2.8-acre site located east of the NEC of Cooper Road and Yeager Drive to allow the applicant time to further develop design alternatives and to be heard by the Planning Commission.

15. PRELIMINARY DEVELOPMENT PLAN: Candlewood Suites

CONTINUED TO AUGUST 27, 2009, as requested by Staff and the Planning Commission, Preliminary Development Plan PDP08-0027 Candlewood Suites, for a four-story hotel on approximately 1.1 acres located south and west of the SWC of Chandler Boulevard and 54<sup>th</sup> Street to allow the request to be reviewed by the Design Review Committee.

16. ZONING EXTENSION: Maplewood Court

APPROVED a three-year zoning extension on the existing PAD zoning designation for a 15-acre, 32-lot single-family residential neighborhood at the SWC of Maplewood and Vine streets south, and east of the SEC of Alma School and Willis roads.

The 15-acre site received PAD zoning for a custom 32-lot single-family residential neighborhood in early 2006. As part of the conditions of approval, there was a condition requiring that construction commence above foundation walls within three years of Council approval. Construction has not started, thus requiring an extension of the zoning. Surrounding the site to the north, east and south is land zoned Agricultural (AG-1) with single-family homes dispersed throughout the area. Directly west, adjacent to the site, is the 43-lot Eden Estates, custom single-family residential neighborhood.

The City has the following options when a zoning district's timing condition expires: the City could, by administrative action, extend the timing condition for another period of time, eliminate the timing condition, or by legislative action, revert the zoning to its former zoning classification. Upon approval of the extension, all other conditions in the original approval would remain in effect.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on May 12, 2009. There were 10 neighbors in attendance with general questions regarding the proposed subdivision and whether or not anything was changing from what was previously approved. Concerns were also raised regarding the maintenance of the site. It was explained that the current request was only for extending the zoning of the site. Staff has received no correspondence in opposition to the request.

Upon finding consistency with the General Plan, the Planning Commission and Staff recommend extension of the timing condition for an additional three (3) years with all of the conditions in the original approval remaining in effect.

17. AGREEMENT: Sewer Line Video Inspection

APPROVED an Agreement for video inspection of sewer lines to Cleanview Hydrovac Services, View Pipe and Simon Family Enterprises in an amount not to exceed \$200,000.00 for a period of one year the option of four additional one-year renewals. These inspections are required by Maricopa County for all new sewers and lines.

18. AGREEMENT AMENDMENT: JP Morgan Chase

APPROVED Agreement Amendment No. 3 with JP Morgan Chase for banking services for a one-year period.

19. AGREEMENT: Ready Mix Concrete

APPROVED an Agreement with Vulcan Materials Company and Maricopa Ready Mix Concrete Co., LLC, for ready mix concrete in an amount not to exceed \$90,000.00 for one year with options to renew for four additional one-year periods.

20. AGREEMENT EXTENSION: Stantec Consulting

APPROVED a one-year extension for Agreement #EN0721-101 with Stantec Consulting for surveying services in an amount not to exceed \$200,000.00. This is the second of four one-year optional renewals.

The City contracts with a consultant to provide land title surveys, right-of-way easement surveys for acquisition and documentation boundary surveys, topographic and mapping surveys, satellite-based control surveys, miscellaneous property line location surveys and the preparation of legal descriptions and exhibits. Typically, the survey fees range from \$600 up to \$10,000 a project. The relatively small size of the projects and fees does not warrant the expense of a consultant selection for each project; therefore, City Staff selects a consultant for an annual on-call contract.

21. DEACTIVATION AGREEMENT: Salt River Valley Water Users' Association

APPROVED a Deactivation Agreement with the Salt River Valley Water Users' Association for the deactivation and removal of two irrigation delivery structures near the intersection of Dobson and Warner roads to accommodate a recent roadway improvement project.

The City has recently completed a project to improve the intersection of Dobson Road and Warner Road. In order to accommodate the improvements, it was necessary to remove two irrigation delivery structures owned by the Salt River Valley Water Users' Association (SRP). One of the structures was located at the SWC of the intersection. The second was located on the south side of Warner Road approximately 1,320 feet to the east. All of the property previously serviced by these structures has been developed, so the structures were no longer in use.

As a requirement for removal of any SRP irrigation facility, the City must enter into an agreement with SRP for deactivating that facility. Under terms of such an agreement, the City agrees to accept responsibility for replacing the facility if replacement should become necessary sometime

in the future. This agreement has such a condition, but the likelihood of ever having to install a replacement for either of these facilities is considered very low.

22. DEACTIVATION AGREEMENT: Salt River Valley Water Users' Association

APPROVED a Deactivation Agreement with the Salt River Valley Water Users' Association for the deactivation and removal of an irrigation delivery structure located approximately 370 feet east of the intersection of Cooper Road and Galveston Street to accommodate the City's planned multi-use trail (Paseo) project.

The City currently has a capital project under design to extend a multi-use trail along the Consolidated Canal from Pecos Road to Galveston Street. In order to accommodate the planned improvements, it will be necessary to remove an irrigation delivery structure owned by the Salt River Valley Water Users' Association (SRP). This structure is located approximately 370 feet east of the intersection of Cooper Road and Galveston Street. All of the property previously served by this structure has been developed, so the structure is no longer in use.

As a requirement for removal of any SRP irrigation facility, the City must enter into an agreement with SRP for deactivating that facility. Under terms of such an agreement, the City agrees to accept responsibility for replacing the facility if replacement should become necessary sometime in the future. This agreement has such a condition, but the likelihood of ever having to install a replacement for either of these facilities is considered very low.

23. DEACTIVATION AGREEMENT: Salt River Valley Water Users' Association

APPROVED a Deactivation Agreement with the Salt River Valley Water Users' Association for the deactivation and removal of two irrigation delivery structures located at the SWC of Alma School and Warner roads and the SWC of Alma School Road and West Stottler Drive to accommodate a roadway improvement project.

In 2007, the City completed a federally funded project that improved the intersection of Alma School Road and Warner Road. In order to accommodate the improvements, it was necessary to remove two irrigation delivery structures owned by the Salt River Valley Water Users' Association (SRP). One of the structures was located at the SWC of Alma School Road and West Stottler Drive. All of the property previously serviced by these structures had been developed, so the structures were no longer in use.

As a requirement for removal of any SRP irrigation facility, the City must enter into an agreement with SRP for deactivating that facility. Under terms of such an agreement, the City agrees to accept responsibility for replacing the facility if replacement should become necessary sometime in the future. This agreement has such a condition, but the likelihood of ever having to install a replacement for either of these facilities is considered very low.

24. DEACTIVATION AGREEMENT: Salt River Valley Water Users' Association

Approved a Deactivation Agreement with the Salt River Valley Water Users' Association for the deactivation and removal of an irrigation delivery structure located at the NWC of Germann and Gilbert roads to accommodate a roadway improvement project.

In 2005, the City completed a roadway improvement project that included work at the intersection of Germann and Gilbert roads. The improvements included in this project were done in

conjunction with a development agreement with Vestar Partners, the developer of the Crossroads Towne Center. In order to accommodate the improvements, it was necessary to remove an irrigation delivery structure owned by the Salt River Valley Water Users' Association (SRP). This structure was located at the NWC of the intersection. All of the property served by this structure was being developed, so the structure was no longer needed.

As a requirement for removal of any SRP irrigation facility, the City must enter into an agreement with SRP for deactivating that facility. Under terms of such an agreement, the City agrees to accept responsibility for replacing the facility if replacement should become necessary sometime in the future. This agreement has such a condition, but the likelihood of ever having to install a replacement for either of these facilities is considered very low.

25. BOARD AND COMMISSION APPOINTMENTS

APPROVED the following appointments: Linda Lujan to Economic Development Advisory Board; Greg Rodriguez and Mary Poindexter to Human Relations Commission; Juniper Dery-Chaffin to Neighborhood Advisory Committee; Ann Stephani to Housing and Human Services Commission; Richard Herrera to Library Board; Brynn Douglass (reappointment), Andy Tran (alternate to full) and Sharae DeWitt (alternate to full) on the Mayor's Youth Commission; Leslie Pitts to the Citizens' Panel for Review of Police Complaints and Use of Force.

26. CLAIMS REPORT

APPROVED the Claims Report for accounts payable checks for the quarter ending June 30, 2009.

27. AGREEMENT EXTENSIONS: Water/Wastewater Facilities

APPROVED one-year Agreement extensions with Wilson Engineers, LLC, (EN0712-101) and Carollo Engineers (EN0718-101) for permitting, study and design services for water/wastewater facilities in an amount not to exceed \$750,000.00 each. This is the second of four one-year renewal options.

VICE MAYOR CACCAMO VOTED NAY ON THIS ITEM.

28. CONTRACT EMERGENCY CHANGE ORDER: McCarthy

APPROVED Contract #WW0501-402 Emergency Change Order No. 1 with McCarthy for the Airport Water Reclamation Plant Expansion, Phase II, in an amount not to exceed \$1,000,000.00, for a revised contract total of \$71,868,665.00.

This construction contract was awarded at the August 23, 2007, Council meeting and provides for the expansion of the City's Airport Water Reclamation Plant located at McQueen and Queen Creek roads.

During the weekend of August 1, 2009, there was a power outage at the Airport Water Reclamation Plant. Following the outage, a problem was noted in wastewater flows monitored by the Scada system. Once it was determined the issue was unrelated to the power outage, Staff became aware of a leak that had developed at the SWC of McQueen and Queen Creek roads. The leak appeared to originate at the structure for the pressurized sewer main connection from

the Ocotillo Plant. Staff diverted wastewater flows and commenced clean up work at the intersection of McQueen and Queen Creek roads.

City Staff does not have the equipment to excavate and repair a large main at the depth of this main nor the equipment or piping to create the critical temporary wastewater by-pass. With the impact on wastewater treatment and roadway rapid failure, Staff negotiated a change order with the contractor (McCarthy) for the adjacent Airport Water Reclamation Plant expansion project. McCarthy has the resources to perform the work and was already mobilized to the site enabling them to begin work immediately.

Due to the wastewater leak's location, it represented a potential threat to the ability to treat the City's wastewater, as well as the public safety issue for the traveling public. Arizona Revised Statute §34-604 provides for the procurement of emergency services in the event of a public health or safety concern. City Code Section 3-13.3 provides for City Manager approval of emergency procurement of services if a situation exists that makes it contrary to the public interest to utilize normal procurement procedures and approval of City Council. Staff found this situation was an emergency and required immediate attention and, therefore, recommended the City Manager approve the change order in the amount of \$1,000,000.00. This item is to advise Council of the need to procure emergency services in excess of the \$50,000.00 in construction services as required by City Code.

29. CONTRACT: Valley Rain Construction

APPROVED Contract #ST0601-405 with Valley Rain Construction Company for Queen Creek Basin Phase III in an amount not to exceed \$943,395.33.

In 2003, the City of Chandler and the Flood Control District of Maricopa County (FCDMC) each purchased one-half of approximately 70 acres of land at the SEC of Queen Creek and McQueen roads. The property was purchased as a retention basin that is one part of the recommended regional drainage plan identified in the Higley Area Drainage Master Plan. The parcel purchased is known as the Queen Creek Road Basin and is intended to retain 154 acre-feet of storm water runoff from the 100-year storm.

In October 2007, Council approved a combined CM@R preconstruction services contract for Queen Creek Basin and the Paseo Vista Recreation Area. Due to their proximity to one another, City Staff believed that by combining the preconstruction services contract, the City would receive greater value in the work being provided. Valley Rain was selected as the contractor for both projects through separate selections based on their strong track record with the City and expertise in such projects.

In February 2008, Council approved a CM@R for Phase I to provide no more than 55,000 cubic yards (CY) of excavated material from the retention basin to the Chandler Airport Property Managers (CAPI) parcel as part of an approved land swap of 44.48 acres.

In August 2008, Council approved a CM@R for Phase II of the Queen Creek Basin, which covered the majority of the excavation of the basin and dirt haul to the Paseo Vista Recreation Area located across McQueen Road. In addition to the excavation, the Phase II contract also allowed for trees to be salvaged to be used in the Paseo Vista Recreation Area and the future Nozomi Park to be located at the basin site.

Phase III was originally to be the finalization of the retention basin work, which includes some final grading and equalization pipes between basins and the construction of Nozomi Park that would provide soil stabilization (dust control) to the entire site. Due to budget revisions, Community Services has had to postpone construction of Nozomi Park. Phase III will now include soil stabilization that does not incur the ongoing maintenance costs associated with a full publicly used park.

Staff reviewed several options to provide soil stabilization to the site until the time that the park may be constructed. Some of these included leasing the land to be farmed, installing a partial irrigation system, or several types of one-time applications (chemical, hydro seed, or decomposed granite). The site was deemed unusable for farming operations. A partial irrigation system would carry a large capital cost and on-going costs for operation and maintenance. Staff recommends using a native seed mix that does not require on-going irrigation for the majority of the site. On steeper slopes within the basin, decomposed granite will be used to provide erosion control.

30. CONTRACT: Qwest Communications

COUNCILMEMBER HEUMANN asked what type of disruptions would occur with this project. MS. HUGHES explained the work with Qwest is on the northwest corner of the intersection and is basically "back of curb". There is potential for some small disruptions in traffic. Councilmember Heumann asked if this was the normal time frame this far out as the project may not occur until January 2012. Ms. Hughes said the opportunity to do it this far out is appreciated. She said in the course of these projects, it allows them to identify potential items and better plan their construction. What they are finding with the utility relocation is the city is being required to execute upfront a design and construction contract. As this is a prior right issue with Qwest, they are being asked to proceed with a design and construction contract. She said the goal is to complete as much dry utility work as to only go in once.

Councilmember Heumann said his concern with these economic times is that any disruption is there a perception that they do not want to Alma School Road and businesses along there are suffering. He expressed his concern with additional work to that area.

APPROVED Contract #ST0704-303 with Qwest Communications for design and construction for the relocation of Qwest facilities to accommodate the Alma School and Ray road intersection improvements in an amount not to exceed \$154,705.00. Since Qwest Communications has prior rights, the City is required to reimburse them for associated costs to relocate their facilities. Qwest will solicit competitive bids for the work and award the construction contract.

COUNCILMEMBER HEUMANN VOTED NAY ON THIS ITEM.

31. CONTRACT: Salt River Project

COUNCILMEMBER ORLANDO asked how the City knows it is getting the best value from this. He asked if SRP has an estimating package or how the best value is determined. CITY ENGINEER SHEINA HUGHES replied that staff is also concerned when reviewing estimates from SRP. She said that many times the information received at this point are estimates and staff will follow-up by ensuring those costs do get spent on the project up to the dollar value approved.

APPROVED Contract #ST0810-303 with Salt River Project (SRP) for design and construction of the relocation of Salt River Project well site equipment to accommodate the McQueen Road

(Queen Creek Road to Riggs Road) improvements in an amount not to exceed \$216,800.00. Since Salt River Project has prior rights, the City is required to reimburse them for associated costs to relocate their facilities. SRP will solicit competitive bids for the work and award the construction contract.

32. CONTRACT: Salt River Project

APPROVED Contract #ST0810-301 with Salt River Project (SRP) for design of the relocation of the irrigation system for the McQueen Road (Queen Creek Road to Riggs Road) improvements in an amount not to exceed \$36,600.00. Since Salt River Project has prior rights, the City is required to reimburse them for associated costs to relocate their facilities. SRP will solicit competitive bids for the work and award the construction contract.

33. CONTRACT: Salt River Project

APPROVED Contract #ST0810-302 with Salt River Project (SRP) for design and construction of electrical relocations to accommodate the McQueen Road improvements from Queen Creek Road to Riggs Road in an amount not to exceed \$1,466,000.00. Since Salt River Project has prior rights, the City is required to reimburse them for associated costs to relocate their facilities. SRP will solicit competitive bids for the work and award the construction contract.

34. CONTRACT AMENDMENT: Salt River Project

COUNCILMEMBER HEUMANN asked what types of disruptions would occur with this project. MS. HUGHES stated with the preliminary work will provide a design and they will work through to ensure the use of as many joint trenches as possible to help minimize the amount of closures. She explained that much of the work will be "back of curb" in the public utility easement area. There may be times when moving into the roadway is necessary, but they typically try to do it in a way which minimizes the interference with traffic.

APPROVED Contract #ST0503-301, Amendment No. 1, with Salt River Project (SRP) for the Chandler Boulevard and Dobson Road intersection improvements in an amount not to exceed \$43,116.00 for a revised contract total of \$293,116.00. Since the award of the original contract, additional fees have been incurred by Salt River Project due to material and labor price escalation.

35. CONTRACT: Salt River Project

APPROVED Contract #ST0503-302 with Salt River Project (SRP) to relocate nine switches, one transformer and a pulling cabinet for the Chandler Boulevard and Dobson Road intersection improvements in an amount not to exceed \$310,143.00. Since Salt River Project has prior rights, the City is required to reimburse them for associated costs to relocate their facilities. SRP will solicit competitive bids for the work and award the construction contract.

36. PURCHASE: Copier Paper

APPROVED the Purchase of copier paper from Unisource Worldwide, Inc., and Spicers Paper, Inc., utilizing the State of Arizona and Maricopa County Community Colleges contracts, in a total amount not to exceed \$100,000.00.

37. USE PERMIT: San Marcos Golf Resort

APPROVED Use Permit UP07-0101 San Marcos Golf Resort to continue a golf cart storage and maintenance yard use on San Marcos Golf Course property near the SWC of Chandler Boulevard and Dakota Street. (Applicant: San Marcos Resort, Frank Heavlin.)

The resort area has been identified as a preferred location for a conference center campus in Chandler. As part of any new development plan related to the conference center, the maintenance and golf cart storage facility would be relocated and/or redesigned to be less prominent and more attractive in a manner appropriate within the larger plan's context. The application requests an additional one (1) year Use Permit approval to continue the maintenance and golf cart storage facility in its current location while the conference center plans are being developed.

The maintenance and golf cart storage facility is located near the property's northeastern end, adjacent to Chandler Boulevard. To the east is the San Marcos Commons residential/retail/office development; to the south and west are the golf course facilities and to the north, across Chandler Boulevard, are the Chandler High School athletic fields and an existing single-family neighborhood. Farther west, along Chandler Boulevard, is an office development that is surrounded by the golf course. Phase I of the San Marcos Commons development is complete, while the Phase II residences immediately adjacent to the storage facility are vacant with no construction anticipated in 2009.

The Chandler Redevelopment Element identifies the subject site as Resort/Hotel, which prescribes uses associated with the existing hotel and resort facility. The storage yard has existed on the site since approximately 1990. During the 1982 master planned zoning for the San Marcos Hotel restoration, the site was part of an area zoned Planned Area Development (PAD) for the golf course. The proposed storage yard use is not allowed by right under the current PAD zoning established in 1982. In 1982, a Preliminary Development Plan (PDP) was also approved that included a destination resort near the present clubhouse, but that resort was never developed. In 1996, an application was submitted for an alternative location for the maintenance facility featuring a recessed yard 3 to 4 feet below grade along Chandler Boulevard, adjacent to the existing apartments, but was later withdrawn. In 2000, the site received its original Use Permit approval for the maintenance/storage facility with a 5-year time limit. The Use Permit was renewed in November 2006 for an additional one (1) year. The current Use Permit application was held for some time with the hope that the conference center development could accompany the Use Permit renewal.

The existing maintenance and cart storage yard is enclosed by a chain link fence with woven wire fabric surrounded by dense shrubs. Mature trees exist along the Chandler Boulevard frontage, though other landscaping in that area was removed during road construction in 2005. Improvements to landscaping, fence maintenance and light shielding were made in conjunction with the 2006 Use Permit renewal.

This site is located along an important gateway into Downtown Chandler and, as such, the opinion of the Planning Commission and Staff is that it should provide an attractive environment and sense of arrival to the City center.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held June 24, 2009. There were three citizens in attendance with questions regarding the resort's long-term development plans. Staff has received no correspondence in opposition to the request.

Upon finding consistency with the General Plan, the Planning Commission and Staff recommend approval subject to the following conditions:

1. Expansion or modification beyond the approved exhibits (Site Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
2. Use Permit approval does not constitute Final Development Plan approval. The site must conform to all applicable City regulations.
3. The Use Permit shall remain in effect for one (1) year from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require reapplication to and approval by the City of Chandler.
4. 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.
5. Storage shall be contained within the confines of the existing chain link fence. Non-compliance with this condition shall void Use Permit approval.
6. Building permits shall be obtained for any structure or assembled object used to shelter material from the elements that is placed upon the property.
7. There shall be no maintenance-related deliveries between the hours of 10 p.m. and 6 a.m.

38. Moved to the Action Agenda

39. USE PERMIT AMENDMENT: Aim High Institute

APPROVED Use Permit UP09-0033 Aim High Institute, amendment to allow additional grade levels in a charter school at 1375 N. McClintock Drive north of Ray Road. (Applicant: Arizona Planning Solutions, Michelle Dahlke; Owner: Advanced Education Services.)

The request is to allow a charter school to operate for grades K-12 on a site zoned Agricultural District (AG-1). The site is surrounded by single-family homes. In 2001, the site received Use Permit approval for a charter school limited to grades 4-12 without time limitation. The addition of grades K-2 requires new Use Permit approval.

In 1987, the site was annexed with AG-1 zoning and received Use Permit approval for the Chandler Chinese Christian Church with a phased development plan. Phase I included an 11,796 square foot two-story building. Phase II, built in 1997, included a 7,095 square foot, two-story classroom building addition. No further phases were approved or built.

In 2001, the Solon Senior Academy received Use Permit approval to change the use from a church to a full-time school. To allay neighborhood concerns, numerous conditions were made on the approval, including limitations on the number of students (400 maximum), the number of staff, outdoor activities, horns/whistles, drop-off/pick-up traffic and grade levels. The applicant agrees to abide by all of the approved conditions with the single exception of the grade levels restriction.

The Aim High Institute will initially have grades K-8 and will add a grade per year as the children get older until July 2013 when it becomes K-12. Class hours will be 8 a.m. to 3 p.m. Monday through Friday.

In the opinion of the Planning Commission and Staff, the previous school proved that a school use could function in a harmonious manner at this location adjacent to neighborhoods. Significantly, the only vehicular access is via McClintock Drive and no nearby residences front on McClintock Drive. The addition of younger children should not appreciably change traffic or noise effects as long as the other conditions are abided by.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on July 9, 2009. There were five neighbors in attendance to receive an overview and ask questions about the nature of the school's operation. One neighbor requested that a particular light pole receive shielding, which the applicant agreed to do. Another neighbor noted that a security alarm has gone off in error recently. The applicant agreed to investigate. The neighbors expressed general support for the request. One neighbor contacted Staff with concerns about traffic flow. According to the neighbor, the Solon Senior Academy operated without problems except for early morning backups on McClintock Drive caused by traffic entering the site. The neighbor is concerned that the backups will continue with the new school.

Upon finding consistency with the General Plan, the Planning Commission and Staff recommend approval subject to the following conditions:

1. Substantial expansion or modification beyond the approved exhibits shall void the Use Permit and require a new Use Permit application and approval.
2. Use Permit approval does not constitute Final Development Plan approval; compliance with the details required by all applicable codes and conditions of the City of Chandler and this Use Permit shall apply.
3. The Use Permit shall be for a charter school grades Kindergarten through 12<sup>th</sup>. The maximum number of allowed students is 400 and maximum number of employees is 30.
4. The applicant shall preserve and maintain the fence and gate located north of the northeast corner of the building that closes off the north drive aisle to prohibit access to the east parking area. The gate is intended to control and limit traffic access to the east side of the property during the schools off hours. The gate is subject to Fire Marshall approval.
5. During the school year, the applicant shall have no more than 20 outside student activities after 6 p.m. Monday through Friday and on Saturday or Sunday.
6. No outdoor speakers, buzzers, or whistles shall be permitted except for mandatory fire and security alarms.
7. Existing area along the south side of the building shall not be used as a playground.
8. Outside student activities on the east side of the property line shall be limited to areas of 30 feet from the east property line, 20 feet from the north property line and 20 feet from the south property line.
9. Outside physical education classes and wellness/fitness programs on the east side of the property are not to exceed 60 children at any set time.
10. Stairs on the west side of the south wing of the building shall be designated as Emergency and Fire Exit, subject to Fire Marshall approval, with all principal ingress and egress to the school to be focused on the center of the building.
11. Vehicles dropping off and picking up children shall be limited to only the west side of the main building.
12. The site shall be maintained in a clean and orderly manner. Any dead or missing landscaping shall be replaced by similar landscaping.

40. USE PERMIT: American Legion Post 35

APPROVED Use Permit UP09-0017 American Legion Post 35, Series 14, for an extension of premises to sell liquor for on-premise consumption only within an outdoor area at 2240 W. Chandler Boulevard.

A Series 14 license, which is considered a “club license”, allows the holder of the club license to sell and serve spirituous liquor for consumption only on the premises owned or occupied by the club and only to bona fide members of the club and their guests. A “club” is defined as including veterans and fraternal organizations and their building associations, social and airline clubs.

The subject property is located at the NEC of Carriage Lane and Chandler Boulevard, west of Dobson Road. The American Legion Post 35 purchased the property in 1937. The entire property is approximately 3.83 acres and consists of two separate parcels. The northern portion of the site is zoned AG-1 (annexed in 1975) and the larger parcel with the existing Post building and outdoor area is zoned SF-18 (annexed in 1969).

The application requests liquor use permit approval outdoors on the larger parcel only. The northern parcel is not a part of this application request. The application does not include liquor use permit approval for the existing Post building as this building has grandfathered rights for liquor. It is believed the Post was initially granted a liquor license in the 1950's then updated in 1986. The initial liquor license issuance predates the City's requirements for a use permit, which became effective in 1980.

The application also requests liquor approval for existing outdoor areas. At this time, liquor is only permitted within the existing Post building. Patrons cannot bring liquor outside of the building. The Legion hosts weddings and other events in the outdoor areas north of the building; therefore, the Post requests an extension of premises for State licensing and a Liquor Use Permit to allow liquor outdoors.

The open area north of the building was recently enclosed with donated wrought iron fencing approximately 5 feet high in order to meet State liquor license requirements to have a cordoned-off area for liquor. The Post is considering a solid block wall with stucco to match the existing wall around the other enclosed outdoor space. The applicant has been advised that the addition of a patio cover, bar area and the like would require new liquor use permit application and approval as this would be an expansion of the liquor use and a change to the existing representations.

The Post is open 7 days a week including holidays, Monday to Friday, 10 a.m. to 11 p.m., and Saturday and Sunday 11 a.m. to 1 a.m. Events are held through the year for Christmas, Thanksgiving, Memorial Day, Veteran's Day and St. Patrick's Day. There are also special awards events, programs and charitable events held throughout the year.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on June 22, 2009. There were no neighbors in attendance. The Police Department has been informed of the application and has responded with no issues or concerns. Staff has received no correspondence in opposition to the request.

Upon finding consistency with the General Plan, the Planning Commission and Staff recommend approval subject to the following conditions:

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 14 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 locations.
4. The site shall be maintained in a clean and orderly manner.
5. There shall be no live entertainment outdoors including acoustic groups, bands, background music, speaker/audio systems and the like other than provided for a special event as described in the Narrative.
6. Noise from outdoor areas shall be controlled so as to not cause a nuisance for nearby residences.

41. PERMANENT EXTENSION OF PREMISES: American Legion #35

APPROVED a Permanent Extension of Premises for a Series 14 Private Club Liquor License (Chandler #6973 L14) held by the American Legion Post 35, 2240 W. Chandler Boulevard. A recommendation for approval of a Permanent Extension of Premises for State Liquor License #14070023 will be forwarded to the State Liquor Department. The Police Department has no objections to the permanent extension of premises, all fees have been paid and the business is in compliance with the City's Sales and Use Tax Code.

42. USE PERMIT: Mimita's Cuban Cafe

APPROVED Use Permit UP09-0022 Mimita's Cuban Café, Series 12, to sell liquor for on-premise consumption only indoors and on an outdoor patio at a new restaurant at 1950 N. Arizona Avenue, Suite 8. (Applicant: Barbara Dominguez.)

The property is located at the SWC of Arizona Avenue and Warner Road. It is zoned C-3 Regional Commercial district and includes an in-line shops building and a retail/restaurant pad at the corner. South of the site is a bowling center and west of the site is a John Deere sales and repair facility. The other three corners of the intersection are commercially zoned and developed.

Rosalee's and Neapolis Pizza & Pasta formerly occupied the property. The prior liquor use permit expired since a restaurant has not been in this location in over a year, thus not keeping the liquor use permit active.

The restaurant will be open 7 days a week from 11 a.m. to 9 p.m. Sunday through Thursday and 11 a.m. to 10 p.m. Friday and Saturday. The outdoor patio on the building's north side has existed since the early 1990's when Rosalee's received liquor use permit approval.

The application requests indoor and outdoor speakers for ambient Cuban background music and a guitar player, indoors only, on Saturday and Sunday nights from 7 p.m. to 10 p.m. Staff does not have any concerns with the proposed music as this property is not surrounded by and is not adjacent to any residential properties.

The request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on June 29, 2009. There were no neighbors in attendance. The Police Department has been informed of the application and has responded with no issues or concerns. Staff has received no correspondence in opposition to the request.

Upon finding consistency with the General Plan and C-3 zoning, the Planning Commission and Staff recommend approval subject to the following conditions:

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.
5. The patio shall be maintained in a clean and orderly manner.

43. LIQUOR LICENSE: Mimita's Cuban Cafe

APPROVED a Series 12 Liquor License (Chandler #125012 L12) for Alipio Al Dominguez, Agent, Mimita's Cuban Restaurant LLC, dba Mimita's Cuban Café, 1950 N. Arizona Avenue, Suite 8. A recommendation for approval of State Liquor License No. 12078067 will be forwarded to the State Liquor Department. The Police Department reports no objections to the issuance of the license and no written protests have been received. All licenses, permits and fees have been paid and the applicant is in compliance with the City's Tax Code.

44. LIQUOR LICENSE: The Rendezvous Point

APPROVED a Series 12 Restaurant Liquor License (Chandler #125397 L12) for Bobby Joe Mitchell, Agent, The Rendezvous Point LLC, dba The Rendezvous Point, 2330 N. Alma School Road, Suite 118. A recommendation for approval of State Liquor License No. 12078063 will be forwarded to the State Liquor Department. The Police Department reports no objections to the issuance of the license and no written protests have been received. All licenses, permits and fees have been paid and the applicant is in compliance with the City's Tax Code. Planning and Development advises a new Use Permit is not required since this will be a continuation of the location's previous use as Citrus Café.

45. SPECIAL EVENT LIQUOR LICENSE: Brazos Abiertos, Inc.

APPROVED a Special Event Liquor License for Brazos Abiertos, Inc., for a Tex-Holdem Casino Fundraiser on September 12, 2009, at the Chandler Center for the Arts, 250 N. Arizona Avenue. The Police Department reports no objections to the issuance of this license. As the applicant is a non-profit organization, no sales tax license is required; however, the special event liquor fee has been paid.

46. FINAL PLAT: Chandler Center at Dobson Crossing

APPROVED Final Plat, FPT09-0001 Chandler Center at Dobson Crossing, for the creation of three individual lots on 45 acres planned for a commercial and multi-family development at the SWC of Queen Creek Road and Arizona Avenue. The plat creates the lots, tracts and easements necessary for the property's development.

ACTION:

38. USE PERMIT: Hill Academy Wireless Facility

CONTINUED TO AUGUST 27, 2009 Use Permit UP08-0073 Hill Academy Wireless Facility to install a 52-foot wireless communication facility on the campus of the new Hill Learning Academy, 290 S. Cooper Road. (Applicant: Quinn United for Cricket Wireless; Owner: Chandler Unified School District.)

Background: The proposed cell tower resembles the typical combination light pole/wireless facility that exists elsewhere in Chandler, including on the church property immediately north of the subject site. However, in this case, there is not an existing light pole and the final product is not intended to provide lighting. Rather, the request is simply for a wireless facility hidden in a vertical metal canister. The Zoning Code requires a Use Permit for wireless communication facilities in non-industrial zoning districts that do not utilize existing poles or towers.

To the north is an existing church; to the west is the Consolidated Canal; to the south are power lines and a planned City of Chandler park; and to the east, across Cooper Road, are single-family homes. The nearest residential properties to the proposed cell tower are approximately 305 feet to the northwest, 335 feet to the southwest and 450 feet to the east across Cooper Road. There is an approximately 40-foot high cell tower disguised as a light pole on the church property to the north. There is also an approximately 65-foot high wireless facility on top of the power lines immediately southwest of the subject site.

The 52-foot tall wireless facility will be located west of the school building. The associated mechanical equipment will occupy 450 square feet either on the roof (preferred) or adjacent to the proposed pole behind the building, depending on the ability to provide screening in a manner required by code. Any mechanical equipment will have to meet the Zoning Code requirements, including that screening be of a height equal to or greater than the top of the equipment and that the screening be architecturally integrated with the building. The applicant may pursue relocating the equipment to the ground if proper rooftop screening cannot be attained.

This request was notice according to the provisions of the City of Chandler Zoning Code with a neighborhood meeting being held on March 8, 2009. There were no citizens in attendance. Staff has received no correspondence in opposition to the request.

Discussion:

PLANNER BILL DERMODY stated this request is for a 52 ft high new cell tower. This location is at new school. He displayed photos of the school and a photo simulation of what the pole would look like and described it as very similar to light pole replacement. He noted that Planning Commission did add a condition to their recommendation of approval that this be painted in the same manner as the school with the same striping.

Mr. Dermody said the applicant tried to work with SRP and the church to the north but were unable to locate it either place. Planning Commission and staff do recommend approval. MAYOR DUNN asked about the other two entities. Mr. Dermody said there are ball fields to the south, but they are out of the search area. Applicants are strongly encouraged to co-locate.

MR. SCOTT QUINN, 3655 W. Anthem Way, Anthem, Az. Representing Cricket said in respect to other alternative locations, they did provide an inventory of sites. Out of the 60 Cricket sites, 51 one of the sites are co-locations as finding existing vertical elements are their first choice. Mr. Quinn said their first site was a SRP substation. SRP did an analysis and they have an existing carrier on the pole so they did not approve the location. The church site to the north was pursued and Cricket would have been responsible for replacing the tower and also would have been

required to take a lower radio frequency centerline that would not have met the coverage objective. He said the ball field lights referred to belong to the LDS church and nationwide they do not enter into wireless communication contracts due to tax purposes.

VICE MAYOR CACCAMO asked if the School District had asked for any camouflaging with landscaping. Mr. Quinn said the design presented is the stealth design. The antennas are concealed within a canister with a light pole type design. He said the first design for a monopine in the northeast corner of the property and because of the school's site restrictions, the pole was moved to this particular location. The associated radio cabinets would be the smaller version and next to the building. He said there options were limited. Vice Mayor Caccamo confirmed that no one was present from the School District.

In response to questions from COUNCILMEMBER HEUMANN, Mr. Quinn said a monopine had been acceptable to the school, but the limited space prohibited it by working around drainage, parking and ingress/egress. Councilmember Heumann asked about the use of the monopalm at Chandler and Cooper. Mr. Quinn said that while they did provide that site to their radio frequency engineers, it was determined it was outside of the frequency area. Mr. Quinn stated that the areas of concentration now are infill sites to address gaps in coverage so it gets very specific in where the sites are located. He added that co-location is their desire as to build these sites is very costly. In response to a question from Councilmember Heumann, Mr. Quinn said the existing sites are about 1 mile apart.

COUNCILMEMBER DONOVAN stated she had asked for a coverage map at Study Session meeting and has not seen it. MAYOR DUNN added that if additional information was needed, to be fair to the applicant, the case should be continued.

COUNCILMEMBER ORLANDO MADE A MOTION TO CONTINUE THIS ITEM TO AUGUST 27, 2009. COUNCILMEMBER HEUMANN Seconded MOTION.

MAYOR DUNN also asked staff to distribute the existing policy for cell towers along with the additional information the applicant was asked to provide.

COUNCILMEMBER SELLERS said questions were raised about potential health hazards of cell towers and asked if there was information available regarding that. CITY ATTORNEY WADE said the FCC (Federal Communications Commission) has pre-empted the local jurisdictions from considering that issue. Any citizens having concern with that issue must address it with the FCC.

COUNCILMEMBER ORLANDO clarified that the information could be requested, however it could not be the basis for the decision.

MOTION TO CONTINUE TO THE AUGUST 27, 2009 COUNCIL MEETING CARRIED UNANIMOUSLY (6-0)

47. USE PERMIT: Shumway Elementary Monopine

DENIED USE PERMIT UP08-0072 Shumway Elementary Monopine, to install a 65-foot monopine wireless communication facility on the campus of Shumway Elementary School, 1325 N. Shumway Avenue, north and east of Ray and McQueen roads. (Applicant: Quinn United for Cricket Wireless; Owner: Chandler Unified School District.)

Background:

There are no suitable alternatives for co-location of the wireless communication facilities on existing poles or towers within the immediate area. According to information provided by the applicant as required by code, there are no verticalities of a height similar to or greater than the proposed monopine within one mile. The applicant has analyzed several other (shorter) existing verticalities in the area and found them implausible because of their height and/or location relative to the targeted coverage area.

This request was noticed in accordance with the Chandler Zoning Code with a neighborhood meeting being held on March 8, 2009. There were no citizens in attendance. Two neighbors attended the Planning Commission in opposition. One of the neighbors provided a petition of opposition with nine (9) neighbors' signatures. Also, a third neighbor contacted Staff after the Planning Commission hearing to voice opposition to a cell tower in this location because of the height.

Upon finding consistency with the General Plan, the Planning Commission and Staff recommend approval subject to the following conditions:

1. Expansion or modification of the use beyond approved exhibits shall void the Use Permit and require new Use Permit application and approval.
2. The site shall be maintained in a clean and orderly manner.
3. The monopine shall be relocated to the southwest of the shelter labeled "15' shelter" on the site plan.
4. Two additional live pine trees shall be planted near the monopine. The live pines shall be 12' high at planting.
5. There shall be a mesh cover upon the equipment shelter at an angle so that balls do not become lodged upon it.

Discussion:

MR. DERMODY said he did have maps available for this case. He explained the application requests a new 65' monopine wireless cell tower to be located in the southern portion of the Shumway Elementary School Campus in the middle of the residential neighborhoods located north and east of Ray and McQueen roads.

The monopine is proposed to be located west of the basketball court and southeast of a play area. The nearest residential property is approximately 360 feet to the southwest. As this is a new site, it does require a use permit.

He displayed a photo simulation of the monopine. The proposed monopine will be 65 feet in height and is at the bottom of a basin. The live pine trees are approximately 45' in height. Planning Commission added a stipulation requiring two smaller live pine trees be planted nearby.

Mr. Dermody stated there has been significant opposition to this request. Primary reasons for opposition include aesthetics, height, possible effects on property values and health effects. Planning Commission and staff recommend approval of this.

Mr. Dermody said when a co-location opportunity is not available, the applicant is asked to get as far from residential uses as they can and attempt to blend in with the area as much as possible.

COUNCILMEMBER HEUMANN asked why this could not be located on the perimeter of a nearby commercial center. MR. DERMODY said the applicant explained the commercial center (Safeway) is on the edge of their target area and would require a taller pole than the existing verticalities would allow. Most likely that may be closer to a residence there. Mr. Dermody displayed a coverage map provided by the applicant.

COUNCILMEMBER DONOVAN asked where other 65' poles are located. Mr. Dermody said he believed a couple of the school sites might have them. The Well Spring Church at the 202 and Dobson may have one. She asked how typical the 65' pole was. Mr. Dermody said there are some in industrial centers and those are not required to have stealth-disguised poles. He explained that among the ones that are required to have use permits and proceed through the public hearing process, there has been an unofficial height limit imposed by Planning Commission and Council for monopoles with the feeling that anything above 55 ft in height is unnatural looking. He added in this case a taller monopole was approved because the mature trees are much taller here. Councilmember Donovan asked if the poles located in schools are also near residents. Mr. Dermody said the ones he can think of are near residences and added they ask for as much distance as possible from residences which is typically over 300 ft.

VICE MAYOR CACCAMO asked about the neighborhood process. MR. DERMODY said the process was followed correctly by Code. Mailers notified property owners within 600'. He stated it is possible some were lost in the mail. The applicant (Cricket) sent the notices out for the neighborhood meeting. City staff sent notice out for the formal public hearings.

COUNCILMEMBER ORLANDO asked about the towers on the SRP light poles. MR. DERMODY said he was not sure how tall these were, but a typical height is about 65'. Councilmember Orlando asked why a nearby SRP pole could not have been utilized and asked if there was a coverage map available. Mr. Dermody said a coverage map was not available with circles. Mr. Dermody did display a map that showed the requested site and four other existing poles.

MR. QUINN, 3655 W. Anthem Way, Anthem, representing Cricket, stated that as with the last case, this is a result of an existing network with gaps of coverage in it. The area is a high customer complaint area. He explained the light areas displayed on the map are general overall coverage. The dark areas are the in-building penetration. He stated this is a very specific site location and there were no other vertical elements to locate on in this general neighborhood. This is in an area with underground utilities. The existing mature vegetation affected the height of their proposed monopole. Because of the stealthing with the extra pine needles and branches, there is about 5 feet of the top portion that is lost due to the camouflage. The centerline of the antenna is at 57'. Going any lower would produce signal degradation due to the existing vegetation as it is line of site. He explained they believed they did the best integration within a pine tree grove and as far away from residential while still within their coverage objective. Mr. Quinn noted it is built in to a retention area and there is a hillside and that is a reason they need the height. He said the original request was for 75'.

COUNCILMEMBER ORLANDO asked Mr. Quinn to draw a compass to identify the ranges. MR. QUINN reviewed the sites and said the sites could typically radiate a mile before losing the quality of the signal. Councilmember Orlando asked if those in the site would be roaming on another carrier. Mr. Quinn said that while there might be coverage in walking in an open area, the user might not have coverage if within a structure. No agreement exists for another carrier to pick up the signal.

COUNCILMEMBER HEUMANN said many carriers do have roaming agreements. MR. QUINN said they do have roaming agreements but typically it is for the rural markets where they might not have coverage. Councilmember Heumann asked if another application would have to be made to cover the area west/east of this site and whether a tower at Ray and Cooper wouldn't cover the entire site. Mr. Quinn said the Ray and Cooper site does not provide the adequate cover for the neighborhood. It is always possible that they may have to come back for future adjustments.

COUNCILMEMBER DONOVAN asked for clarification on interference between sites. MR. QUINN said that is in reference to Cricket sites. He pointed to the four existing Cricket sites and stated that as you get closer to the existing sites, there are degradation issues between the signals. If too close, there is a competition between the sites. Councilmember Donovan asked about the reference in the memo to a taller tree comes the ability to add on other wireless communication antennas. Mr. Quinn said each carrier typically operates on a different frequency. He said that in reference to expansion, it could be the option for other providers to locate on their pole. In addition, there could be greater demand in the community and Cricket would have additional antenna placement on the pole. As this neighborhood is established, the chances of Cricket expanding would be minimal unless there is a demand in the future for video conferencing or watching television on a phone or through home Internet service. Councilmember Donovan clarified the additional antennas would basically increase bandwidth but not radius.

MAYOR DUNN noted the e-mails that were sent to Council along with the petitions.

MR. MICHAEL WESTLAKE, 1482 E. Constitution Drive, asked the Council to reject the request. He stated that he understands there is a desire to increase public school funding but allowing cell phone companies to place 65' fake trees in the schools and playgrounds is not the best choice for the community. He said he understood other cell companies have placed smaller towers on city streetlights and SRP poles and those have gone unnoticed by him. He commented that T-Mobile was denied a request in 2007 for a 65' palm at San Tan Junior High. Neighbors were critical of the height, appearance and placement close to home and children's play areas. He asked the Council to deny the request based on the same reasons. He believed the applicant has not tried hard enough to find a more suitable location, there is no comparable structure height any where nearby and the monopine is too close to residential properties. He said Chandler should have a standard for cell phone towers and not allow fake trees to cheapen the neighborhoods. He stated he chose his home based on the park site available in this community.

MR. ROLAND LATVALA, 1272 N. Bedford Drive said he attended the Planning Commission meeting and presented a petition signed by the area homeowners. He said for some of the same reasons the other speaker mentioned, he feels Cricket should try harder to use the existing infrastructure. He said the signers believe this will be an eyesore and will lower property values. It creates a needless concentration of RF in the school zone and park. He questioned why the site couldn't be relocated three blocks when the range is one mile. He referred to an existing site at the Safeway center. He referred to a map he had distributed to Council displaying the site at the school. He stated when talking with a school representative his take this was being requested due to the rental income for the school and expressed his concern to them regarding this being located on the playground. Mr. Letvala also displayed visuals of a monopine near Broadway and the I-10.

MS. SHIRON RUFF, 1348 N. Velero Street, asked for Council's rejection of the request. Ms. Ruff noted her agreement with the previous comments. She said she didn't believe that the inadequacy of coverage should rest on the community. She said it shouldn't be driven by dollars.

MS. BEVERLY HERNANDEZ, 817 S. Lagoon Drive, Gilbert. Ms. Hernandez said she was representing some concerned parents from Shumway Elementary that reside in both Chandler and Gilbert. She referred to a copy of her handout. She cited concerns with property values and noted that while health reasons are not a reason to list, they do feel that way. If there was a choice to purchase in a neighborhood that had a cell tower, they may choose not to do that simply because of that aspect of it. She said she had done research on RF radiation and the levels in the Federal Telecommunications Act, the levels specified are geared toward are young adults. There has not been research regarding the effects on children or developing children especially under the age of 8. She cited an additional concern with the judgment of school officials and felt the parents should have been notified. The neighbors like the undergrounding of the utilities. She noted that within 200' of the site are portable classrooms. She also questioned that the RF levels if this site expanded.

MS. ELLINOR ELLEFSON, 1132 E. Kent Place, stated she found out about the tower by reading a sign posted in the park. She stated that her 6-year-old daughter now has a fear of this strange and enormous tree that will exist. She stated there is a school district, she believed it was New Jersey that had issued a precautionary statement regarding placement of cell towers near schools. She stated her agreement with the prior comments made.

MR. QUINN, in response to a question from Councilmember Orlando, explained the pine base would be in a 9' masonry screen wall that matches the school that has a cap on the top. He stated that Cricket uses outdoor cabinets and will be screened behind the wall. The area of use will be about 20' x 30'. He stated after the Planning Commission meeting, the site was moved about 25' to the southwest to be further away from the play areas and put it closer to the pine tree groves.

VICE MAYOR CACCAMO asked if there would be any screening of the wall with landscaping materials. Mr. Quinn replied there was an additional requirement for two pine trees. He said this would be a tight location amongst the existing trees.

MOVED BY VICE MAYOR CACCAMO TO DENY USE PERMIT UP08-0072 SHUMWAY ELEMENTARY MONOPINE AND DENY INSTALLATION OF THE 65' MONOPINE WIRELESS COMMUNICATION FACILITY ON THE CAMPUS OF SHUMWAY ELEMENTARY SCHOOL AT 1325 N SHUMWAY AVENUE, NORTHEAST OF RAY AND MCQUEEN ROADS. SECONDED BY COUNCILMEMBER HEUMANN.

MAYOR DUNN asked if this sort of tree was done on other school sites. MR. QUINN said it is more common in the Flagstaff area because of the pine trees. There are a few throughout the valley. Mayor asked if Cricket had done a pine tree of this nature and height at other school sites. Mr. Quinn said this would be the first pine tree application.

MAYOR DUNN asked about the involvement of the School District. MR. DERMODY said the School Board is involved as they do have to approve it and as far as he knows they don't consider the City's recommendations.

MR. QUINN said he too has children and gave a reminder that each wireless provider is trying to provide a service and be a good neighbor. He said that often health and real estate values come in to play. He explained that this is a non-ionized frequency. It is the same thing an am/fm radio, television signal, baby monitor, and a home wireless phone operate on, but these examples operate on a much higher frequency. He said the cell phone is at the lowest end of the spectrum

and emits 10-100 watts. He said one reason the federal law was passed was because the cell phone is the lowest spectrum of all of the frequencies, it has less of an impact on a community than any other frequency that is out there.

MAYOR DUNN said that all of the material he has seen suggests that there hasn't been a health issue established from the medical standpoint. He noted there was a request for that information if Mr. Quinn would like to provide information on it.

COUNCILMEMBER HEUMANN said this is in the middle of a neighborhood within a park and it's part of the aesthetics of the neighborhood and believes there are other options. He said this would be a challenge for the providers as they come in to balance their service out. He said he would not support the application as it is a disruption to the neighborhood.

COUNCILMEMBER DONOVAN said some of her concerns are the height, the rare acceptance of 65' poles and with it being in a neighborhood. She encouraged the applicant to look at the more commercial areas if the motion passes.

MOTION TO DENY WAS APPROVED UNANIMOUSLY (6-0).

48. PRELIMINARY DEVELOPMENT PLAN: Culver's Restaurant

CONTINUED TO AUGUST 27, 2009 COUNCIL MEETING the Preliminary Development Plan PDP09-0011 Culver's Restaurant, for a restaurant on a 1.3-acre pad site within the Park at San Tan development west of the Loop 101 Price Freeway along Ray Road. (Applicant: RCC Design Group, Stuart Rayburn; Owner: Park at San Tan LLC.)

Background:

The site is the westernmost of three vacant pad sites fronting Ray Road within the Park at San Tan mixed-use office and retail development that received its PAD zoning in 2004 and includes a 5-story office building along the Loop 101 Price Freeway. The pad site is surrounded to the west, south and east by the rest of the Park at San Tan development. North, across Ray Road, is the San Tan Corporate Center office development. West of the Park at San Tan development is a single-family residential neighborhood.

The subject pad site is approximately in the middle of the Park at San Tan along Ray Road. Inline retail shops are located west of the site wrapping southward along Federal Street. An inline office is located in the development's southwest portion, a 5-story office building is in the development's southeast portion and a 4-level parking garage is located between the office structures south of the subject pad site.

The approved monument signage included two panel signs along Ray Road and one sign along the Price Frontage Road in the site's southeast corner. All three monument signs feature multiple tenants (up to eight) with uniform white letters on a black background. Logos on monument signs are in line with the tenant names and are also restricted to be white in color.

The application also requests permission for a third monument sign to be located along the Ray Road frontage (fourth monument sign overall). The sign is single-tenant with the anticipation that the other two vacant pads will utilize panels on existing monument signs. The sign's lower panel will be changed daily to display featured frozen custard flavors. Unlike the other signs, the

application requests permission to use a corporate color (blue) for the lettering and logo background and lettering over 4" high.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on June 10, 2009. There were five residents in attendance to ask general questions about the project and express support for a full-access movement on Ray Road in the center of the site that would relieve traffic from Federal Street, including traffic generated by this restaurant. The neighbors are aware that the question of a full-access median break is not part of the scope of this application. Staff has received no correspondence in opposition to this request.

Upon finding consistency with the General Plan and PAD zoning, the Planning Commission recommended approval subject to the following conditions:

***Planning Commission Recommended Action***

1. Compliance with the original stipulations adopted by the City Council as Ordinance No. 3622, case DVR04-0048 Santan Mixed Use Amended, except as modified by condition herein.
2. Development shall be in substantial conformance with the Development Booklet entitled "Culver's Restaurant" kept on file in the City of Chandler Planning Services Division in File No. PDP09-0011, except as modified by condition herein.
3. 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 equipment, so as not to create problems with sign visibility or prompt the removal of required landscape materials.
4. The monument sign's sign panels shall have an integrated or decorative cover panel until a tenant name is added to the sign.
5. Raceway signage is prohibited.
6. The landscaping shall be maintained at a level consistent with or better than at the time of planting. The site shall be maintained in a clean and orderly manner.
7. The building and site lighting shall reflect the wall-pack and light pole designs already established in the Park at San Tan development. The Development Booklet's representation of a curved wall light design shall not be used.
8. A signed and notarized Consent to Conditions waiver shall be provided to Planning Staff within three weeks of City Council approval of the PDP in order for the approval to be valid.
9. The applicant shall work with Staff to create a pedestrian connection to the retail to the west.

***Staff Recommended Action***

1. Compliance with the original stipulations adopted by the City Council as Ordinance No. 3622, case DVR04-0048 Santan Mixed Use Amended, except as modified by condition herein.
2. Development shall be in substantial conformance with the Development Booklet entitled "Culver's Restaurant" kept on file in the City of Chandler Planning Services Division in File No. PDP09-0011, except as modified by condition herein.
3. 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 equipment, so as not to create problems with sign visibility or prompt the removal of required landscape materials.
4. The monument sign's sign panels shall have an integrated or decorative cover panel until a tenant name is added to the sign.
  5. Raceway signage is prohibited.
  6. The landscaping shall be maintained at a level consistent with or better than at the time of planting. The site shall be maintained in a clean and orderly manner.
  7. The building and site lighting shall reflect the wall-pack and light pole designs already established in the Park at San Tan development. The Development Booklet's representation of a curved wall light design shall not be used.
  8. A signed and notarized Consent to Conditions waiver shall be provided to Planning Staff within three weeks of City Council approval of the PDP in order for the approval to be valid.
  9. The applicant shall work with Staff to create a pedestrian connection to the retail to the west.
  10. The monument sign's colors shall be consistent with the project's other monument signs. The color blue shall not be allowed on the monument sign.
  11. The building signs' blue backgrounds shall be unlit.

Discussion:

PLANNER BILL DERMODY said the Preliminary Development Plan does approve the site layout, architecture, landscaping and signage. He stated the only point of disagreement is on the signage. He said there is disagreement between the applicant and staff on both the building signage and the monument signage. He noted the Planning Commission fully supports the building and monument signage as presented.

Mr. Dermody said when the project was approved it had very strict signage regulations which have been modified some since then. He displayed a photo of signage showing reverse pan channel letters, individually mounted. He said the staff memo says the letters are pan channel and corrected that to be reverse pan channel halo illuminated and displayed a photo of the Firehouse Subs signage at night.

He said the applicant does propose a three dimensional cabinet design. The general look during the day is not an issue, although it will be the first cabinet sign in the development. The point of contention is whether the blue on the sign is to be lit. Staff does recommend a condition that only the white area be lit and the blue remain unlit in order to more closely match the other signage in the development. Also recommended is an additional stipulation that is not in the memo, that this be reverse pan channel. That has the added benefit in that if the blue is not lit, the halo illumination will have some blue to it. Mr. Dermody explained they do see this as a compromise. He said there was some degree of compromise as Culver's was not able to get neither their customary awnings nor their blue roof. Mr. Dermody displayed additional photos of various Culver restaurants to show the cabinet style sign looks like.

MAYOR DUNN asked about the design of the building. MR. DERMODY said the proposed building uses many of the same materials and arches of the existing site. Mr. Dermody said the point of discussion is whether the blue in the signage is lit on the building along with the form on the monument sign. Mr. Dermody said that Planning Commission has a different set of recommendations than staff.

CITY MANAGER PENTZ asked the photo be displayed of the Culver's from the Midwest location. He asked if staff discussed with the applicant the feasibility of using this type of letter displayed. He stated he found that type of lettering more attractive. MR. DERMODY replied the applicant was very concerned about the loss of blue as it is a corporate color so therefore; staff reached what staff felt was a compromise.

MAYOR DUNN asked if that was the only signage on the building. MR. DERMODY said there were four building signs, one on each face.

COUNCILMEMBER HEUMANN asked if there was a master sign package for this center. Mr. Dermody said there was and the other tenants are complying with that. Councilmember Heumann confirmed that the use of cabinet signs was trying to be eliminated because it is not as attractive as the reverse pan and some of the others things. Councilmember Heumann asked about doing a blue reverse pan channel letter and noted that Firehouse Subs and Scottrade have different colors. Mr. Dermody said Culver's didn't want to go to the individual letters.

MR. DERMODY also displayed the monument signs and noted that the lettering is limited to one color – white. He said that Culver's is asking for two modifications. One is with the larger letters and staff and Planning Commission are supportive of that. He said they also want blue. Planning Commission supports this change as they found it to be minor. Staff recommends the blue be eliminated leaving a black and white sign. Mr. Dermody noted the changes between the Staff and the Planning Commission.

COUNCILMEMBER HEUMANN asked about push through letters. Mr. Dermody said they are and there is some depth to the sign.

Mr. Dermody reiterated that the issue with the monument sign is going with the blue or the black. The building sign is not a change of colors; it's simply the way it's lit.

COUNCILMEMBER DONOVAN asked if the reason for concern on the monument sign was because of the existing sign package on the complex or if it were at another location, would it still be a concern. MR. DERMODY explained that the particular site has signage that is very much orientated to an office type of development. More retail oriented centers have fewer tenant panels and color is acceptable. In this situation, where there are 8-10 tenant panels on a sign, color would make it appear cluttered. Tonight's request is only Culver's but it could be seen as a precedent. He said that cabinet signs are forbidden in the Commercial Design Standards unless it is a logo. She asked if this was a logo. Mr. Dermody said the applicant and a few of the Planning Commissioners viewed it that way. Staff does not.

COUNCILMEMBER ORLANDO asked if hypothetically this was McDonald's, would staff still request a black and white sign. Mr. Dermody said corporate architecture is forbidden in the City of Chandler.

MAYOR DUNN said what presents itself is that there is a precedent throughout the retail center that has a certain style of signage. Mr. Dermody said all the signs are individual letters, reverse pan channel halo illuminated, including the restaurants in the inline retail. Mayor Dunn asked if staff had any concerns with the changeable sign. Mr. Dermody said it was very positive. Most of Culver's other sites have a digital reader board. Mayor Dunn asked if there have been comments from the other tenants. Mr. Dermody said they have not heard from other tenants.

COUNCILMEMBER HEUMANN asked if there were suggestions from tenants for other kinds of signs from what was permitted. Mr. Dermody said an example would be Firehouse Subs. When they came in for administrative approval, they explained they are a franchise and they have a cabinet type of sign. They created a new type of sign for this location. Mr. Heumann confirmed that there is a precedent that we have refused other tenants based on our standards.

MAYOR DUNN confirmed that the smaller directional signs are blue and are acceptable, the monument sign issue is blue vs. black and the three building signs would be a matter of being lit differently.

MR. MICHAEL MONROE, Archicon Architects, 4041 N. Central Avenue, Phoenix as the applicant said they have progressed through a long process with addressing circulation, architectural elevation and signage with both the developer and the neighborhood. He gave an overview of the Culver's history beginning at their first store in Wisconsin. There are 402 existing stores in the U.S. There has not been one store closed in its inception since beginning in 1984. He said there is an extreme process that occurs within Culver's Corporate in site selection. He identified the other locations in Arizona. Mr. Monroe displayed pictures and noted that the cursive lettering in some of the Culver's logos being displayed is not used any more in their logos. He acknowledged the awnings and the gooseneck lighting that reflect the corporate blue are not being used at the Chandler location. They have never not used this at any other location. He continued showing various Culver locations. In response to questions from Mayor Dunn, Mr. Monroe said that Culver's prefers to use the reader signs, but not all municipalities allow it.

Mr. Monroe said the sign being proposed is not a typical box sign. This sign will have individually pan lit cursive letters, which has not been done by Culver's before and had to receive corporate approval. He said even though the appearance is the same it is still an additional cost and allows the individually lit letters to match the rest of the development. He stated this is a trademark logo. He said it has been mentioned this is an office and retail complex, although Culver's is not an office or retail use.

COUNCILMEMBER ORLANDO asked the applicant why they should be given an exception MR. QUINN said in order to keep it's corporate identity and to keep the signage in harmony with all of the signage from the street, the site and the building and he believed all elements have been incorporated. He said Culver's is a corporate identity located throughout the United States and that is what separates them. Councilmember Orlando clarified that in keeping consistent with Chandler's policies, even McDonald's that has multiple stores throughout the world, would not be allowed to put the red and yellow logo up, just as the other tenants in this center were not allowed to do. Mr. Quinn said he believed the other tenants did not open up the signage amendment to the PDP to bring up the issue. He said the 2007 amendments allowed for "corporate colors, fonts and logos to be used on building signage in order to improve the ability to attract tenants". He said where the disagreement occurs is whether to have the blue lit on the building. Mr. Quinn displayed a photo of a Culver's restaurant at night and argued that without the awnings and lighting, there is limited identity to the restaurant – 750 s.f. of corporate identity had been removed from this building in order to compromise with staff.

MR. QUINN responded to the Mayor stating the sign is 66" by 3' high. COUNCILMEMBER HEUMANN referred to the sign shown from one city, and asked how many stores that particular sign was on. The response given was 4 to 5 stores out of 402. Councilmember Heumann stated his concerns on changing the standards. Mr. Quinn said before they worked with staff, they worked with the developer and were asked to change a lot of elements for their building in order to compensate the developer. The developer has a passion for this center and Mr. Quinn

reported a neighborhood meeting was held and one of the business owners stated his support for the building design. He questioned how corporate colors could not be allowed.

MR. JASON KVETON, business partner for the proposed Chandler Culver's, said in the entire Culver's system there are 6 restaurants of the 402 that do not have the standard monument sign, logo, reader board, and building signage. Those stores have 30% on average lower sales. He said by altering the signage, they run the risk of lowering the system average and therefore run the risk of being unsuccessful. He said it took a hard review by their corporate office with the comment about "not losing any more blue". He referred to how the building would again look at night and not having any blue displayed. He said as they started to expand into different markets, there was neighborhood opposition to the blue roof. To alleviate that, Culver's did the blue awnings and the blue strip of neon lighting. He stated they are not proceeding with construction drawings until the outcome of this meeting is determined. He stated that Culver's is excited about the location being in the heart of the community, but neighbors can't enjoy the center at night. He stated the only concern they had was the potential low night traffic. He said while this is a premier location in Chandler, they feel it can only be that way if it has great business in the day and at night. He said that Firehouse Subs does well primarily due to the office traffic that supports its lunch and afternoon sales. He said they did have multiple neighbors show up at the neighborhood meeting and were happy that the community cares about what is going in there.

In response to questions from Council Heumann, Mr. Kveton said there was one business owner and another 4 or 5 additional people representing others. Mr. Kveton reiterated that Planning Commission is recommending the signage be lit and retaining the blue.

MAYOR DUNN commented that the building mirrors the center well and presents compromise.

MR. JACK MCKINNEY, developers of the Park at San Tan thanked the Planning staff for their work on this. He said they are still trying to keep the integrity of the center. He said they have worked hard to make it work from the "inside out" so parking is contained on the inside. He voiced his support for Culver's request and the ability to integrate into the architecture well.

In response to questions from Councilmember Donovan, Mr. Dermody explained the third area of disagreement is that the Culver's letters be halo illuminated reverse pan channel. He explained that regular pan channel broadcasts light outwards. Reverse pan channel has light shining backwards toward the building. Mr. Dermody said there would be some blue showing from the glow. Staff is asking that the blue be eliminated on the monument sign.

COUNCILMEMBER HEUMANN asked if there was push through lettering on both the top and the bottom that gives the effect of individual lettering and keep the blue. He asked if that would be a compromise as you would see some of the blue from the glow of the letters. Mr. Dermody said it sounded possible but he is not sure. Councilmember Heumann said he was trying to keep within the standards and give Culver's their corporate logo. Leave the blue – light it differently.

MAYOR DUNN complimented the integration of the building. He felt the sign is a logo and doesn't have a problem with the blue.

COUNCILMEMBER SELLERS clarified the Planning Commission is in agreement with the applicant's request. Mr. Dermody responded they are.

MAYOR DUNN asked if the applicant would be in agreement to Councilmember Heumann's suggestion.

Mr. Kveton said Culver's is a 2.8 million dollar investment, a \$40,000 monument match and a reduction of 700 s.f. of corporate ID. They removed some of their standards and in order to compromise. He stated their trademark corporate sign, he believes, is allowed. The economy is different today than when this sign package was done in 2007 and they are not willing to budge on the sign. He said they are constructing their monument sign exactly the way that is there now. He responded to Councilmember Heumann stating the current signage on the monument sign is routed out. The only letters that are raised are on the word "park" all other letters on the sign are routed out. Their proposed sign, routed out white letters with corporate blue. He referred to a picture and disagreed that letter placement would allow enough blue to be visible. He said the smallest sign Culver's has ever done for a monument sign was 50 s.f. He said the proposed sign, under approval by their corporate office, is 16 s.f.

MOTION WAS MADE BY COUNCILMEMBER SELLERS TO APPROVE PRELIMINARY DEVELOPMENT PLAN PDP09-0011 PER THE PLANNING AND ZONING COMMISSION'S RECOMMENDATIONS. SECONDED BY COUNCILMEMBER DONOVAN.

MAYOR DUNN said he felt the Council was trying to manufacture signs and while he appreciates the effort, he looks at this differently. He felt there was enormous comprise from the applicants of what could be on their typical corporate store in regards to awning and lighting. He believed what exists is a corporate logo.

COUNCILMEMBER ORLANDO asked why the policy was in place regarding the corporate logos being prohibited. MR. DERMODY said on this particular site, it was due to the prime location, the desire to have a high quality development. The cabinet style is forbidden citywide and was a policy decision. Councilmember Orlando asked if there was potential for more development on this site. Mr. Dermody said there are two remaining vacant pads east of this one. Councilmember Orlando stated then if this signage is allowed then the other two pads could argue they would like their logos lit the same way and that would defeat the purpose of having the standardized look and feel of the center. Mr. Dermody said that would be a possibility for the building signage.

COUNCILMEMBER DONOVAN thanked the staff and the applicant for their work. She clarified that staff was not opposed to the signs, but to the color and the way it is lit. Mr. Dermody replied said in regard to the building signage, they are not opposed to the color, but only how the sign is lit. The other tenant signs don't have a background like this. Councilmember Donovan asked about the development of the sign restrictions. Mr. Dermody replied the applicant wanted it to some degree. He said originally the building signage was like the monument signage colorwise in that there was a uniform color, it all had to be white. In 2007, that was adjusted to allow both corporate logos and corporate colors for the building signage only upon request of the developer. Councilmember Donovan said it seemed to her there was an idea what would go into the development and there is a need to be able to attract good office tenants and as the project moves forward there was a change in mind in what comes through.

COUNCILMEMBER HEUMANN asked if reverse pan channel was allowed as part of the 2007 change. Mr. Dermody said the reverse pan channel halo illumination was part of the original sign package and not modified in 2007. Councilmember Heumann asked if the monument sign on Ray Road was the same as the other one. Mr. Dermody said it is.

MAYOR DUNN asked why there would be a separate monument sign for Culver's. Mr. Dermody said while having a multi-tenant sign is preferred, having a single tenant monument sign out front is not objectionable if there is 300' spacing between them.

In response to a question from Councilmember Heumann, Mr. Dermody responded the staff recommendation currently for any future tenants is that they utilize existing monument signage.

THE MOTION WAS DENIED DUE TO A LACK OF MAJORITY (3-3) with Vice Mayor Caccamo and Councilmember's Heumann and Orlando voting nay.

MOVED BY VICE MAYOR TO APPROVE THE PRELIMINARY DEVELOPMENT PLAN FOR CULVER'S RESTAURANT PER STAFF RECOMMENDATIONS. SECONDED BY COUNCILMEMBER HEUMANN.

MR. DERMODY clarified if that would include the verbal recommendation about halo illuminated reverse pan channel letters presented.

COUNCILMEMBER HEUMANN SUGGESTED AN AMENDMENT TO THE MOTION TO ALLOW THE BLUE ON THE MONUMENT SIGN. VICE MAYOR CACCAMO ACCEPTED THE RECOMMENDATION.

COUNCILMEMBER DONOVAN asked for clarification. Vice Mayor Caccamo said the intent of his motion was to include the backlit lights are on the blue. Mayor Dunn said the motion is to allow the monument sign as recommended by Planning and Zoning and to have the remaining signs as recommended by staff with the recommendation that the Culver's script on the building signage shall utilize reverse pan channel halo illumination.

MR. MONROE commented that if the trademark corporate logo is not exactly to what they presented to Planning Commission, Culver's would not be here in Chandler. He stated that is not from his franchise client, but that is from Culver's corporate. He stated this would change the trademark for the corporate blue. He explained the struggle in removing the awnings with the gooseneck lights and the building signage with Culver's corporate. Mr. Monroe stated that after 5 p.m. is the biggest time for them to create business. Any particular deviation from that corporate logo, which there has been four stores, they are 30% under standard corporate revenue across the board. Culver's will not take a chance of having one location close.

MAYOR DUNN offered that perhaps the applicant and staff should get together and work out something.

COUNCILMEMBER ORLANDO stated to the applicant that the standards were known and if the signage was not discussed until late in the game with corporate, that is not this body's fault. Mr. Orlando said he hoped the corporate cultural was not to threaten the Council.

Mayor Dunn stated the desire to have this business in the city.

MAYOR DUNN MADE A SUBSTITUTE MOTION TO CONTINUE THIS ITEM TO THE NEXT COUNCIL MEETING, AUGUST 27, 2009. SECONDED BY COUNCILMEMBER ORLANDO. MOTION CARRIED UNANIMOUSLY (6-0).

CURRENT EVENTS

A. Mayor's Announcements:

Registration for the upcoming Fall Landscaping Classes  
Registration for the Citizens' Police Academy  
Chandler Boys & Girls Club building fundraiser – Buy a Brick

B. Councilmembers' Announcements:

Councilmember Donovan attended CGCC President Marie Hesse's Farewell party and wished her well in her new role as ASU's liaison to the community colleges. She welcomed Linda Lujan as the acting President at the college.

Councilmember Orlando announced that on September 26, Post 35 would hold the 4<sup>th</sup> Annual Veterans' Expo.

C. City Manager's Announcement:

None.

Adjournment: The meeting was adjourned at approximately 10:20 p.m.

ATTEST: \_\_\_\_\_  
City Clerk

\_\_\_\_\_  
MAYOR

Approved: August 27, 2009

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the regular meeting of the City Council of Chandler, Arizona, held on the 13<sup>th</sup> day of August 2009. I further certify that the meeting was duly called and held and that a quorum was present.

DATED this \_\_\_\_\_ day of August 2009.

\_\_\_\_\_  
City Clerk