

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, November 4, 2009 held in the City Council Chambers, 22 S. Delaware Street.

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

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

Absent and excused:  
Commissioner Christy McClendon

Also present:

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

4. APPROVAL OF MINUTES  
**MOVED BY VICE CHAIRMAN CASON**, seconded by **COMMISSIONER KELLEY** to approve the minutes of the October 7, 2009 Planning Commission Hearing. The motion passed 6-0 (Commissioner McClendon was absent).

**MOVED BY VICE CHAIRMAN CASON**, seconded by **COMMISSIONER RIVERS** to approve the October 13, 2009 Special Meeting minutes on the South Arizona Avenue Design Guidelines. The motion passed 6-0 (Commissioner McClendon was absent).

5. ACTION AGENDA ITEMS  
**CHAIRMAN FLANDERS** informed the audience that prior to the meeting Commission and Staff met in a Study Session to discuss each of the items on the agenda and the consent agenda will be approved by a single vote. After Staff reads the consent agenda into the record, the audience will have the opportunity to pull any of the items for discussion. Item E was pulled for action.

A. LUP09-1001 OREGANO'S @ THE SHOPS AT PECOS RANCH

**Approved to continue to the December 16, 2009 Planning Commission hearing.**

Request Use Permit approval to sell liquor as permitted under a Series 12 (Restaurant) license for a new restaurant and outdoor patio within an approximate 12-acre commercial development located at the northeast corner of Dobson and Germann Roads. **(REQUEST CONTINUANCE TO THE DECEMBER 2, 2009 PLANNING COMMISSION HEARING.)**

B. PDP09-1002 SAM'S CLUB #4927 (ARIZONA AVE.)

**Approved.**

Request Preliminary Development Plan (PDP) approval to allow outdoor vehicle display at an existing retailer. The property is located at 1375 South Arizona Avenue, east of the northeast corner of Arizona Avenue and Willis Road.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Sam's Club #4927", kept on file in the City of Chandler Planning Services Division, in File No. PDP09-1002, except as modified by condition herein.
2. The display area shall be limited to one vehicle located in display area "B" as represented.
3. Expansion or modification beyond the approved Development Booklet exhibits shall require new PDP application and approval by City Council.
4. The site shall be maintained in a clean and orderly manner.

C. LUP09-1004 JUICE

**Approved.**

Request Use Permit approval for a Series 12 (Restaurant) liquor license for on-premise consumption only within a new restaurant and outdoor patio. The subject site is located at 2475 W. Queen Creek Road, Suite #1, which is west of the southwest corner of Queen Creek and Dobson Roads.

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

D. LUP09-1007 PHASE

**Approved.**

Request Use Permit approval to sell and serve all spirituous liquor within a new music venue that includes a newly constructed outdoor patio (Series 6 Bar License). The facility is located at 1020 N. 54<sup>th</sup> Street, Suite 100, at the northeast corner of Ray Road and the I-10 Freeway.

1. The Use Permit is for a Series 6 license only, and any change in type of license shall require reapplication and new Use Permit approval.
2. Substantial conformance with submitted application materials (floor plan, narrative). Expansion beyond the approved Floor Plan shall void the Use Permit and require new Use Permit application and approval.
3. Any substantial change in the floor plan to include such items as, but not limited to, additional bar serving area or the addition of entertainment related uses shall require reapplication of the Use Permit.
4. The Use Permit is non-transferable to any other location.
5. The patio and parking area adjacent to the facility shall be maintained in a clean and orderly manner.
6. **The Use Permit is effective for one year from the date of City Council approval. Continuation of the Use Permit beyond that date shall require reapplication to and approval by the City of Chandler.**
7. **To go sales of alcoholic beverages shall be prohibited.**

F. UP09-0041 PERFORMANCE AUTO SALES

**Approved.**

Request Use Permit approval to allow an automotive repair and performance modification business in I-2 (General Industrial District) zoning. The property is located at 6700 West Chicago Street, Suite 6-7, south of Chandler Boulevard and east of 56<sup>th</sup> Street.

1. All vehicle repair/servicing/upgrades, including the overnight storage of vehicles waiting for servicing, shall occur only within the building. No work or storage of vehicles to be performed outdoors.
2. The Use Permit is non-transferable to other suites/tenant spaces on this property.
3. Any substantial change in the floor plan, including but not limited to expansion, additional of uses, and the like, shall require re-application and approval of a Use Permit.
4. The site shall be maintained in a clean and orderly manner.
5. All building signage, whose text shall be limited to business name identification only, shall be in conformance with the Chandler Sign Code and be issued a City Sign Permit.
6. The Use Permit is effective for a period of five (5) years from the date of City Council approval. Operation of the business beyond the five-year time period shall require re-application to and approval by the City of a new Use Permit.

G. ZUP09-0001 KNOX ELEMENTARY MONOPALM

**Approved.**

Request Use Permit approval to install a 65-foot monopalm wireless communication facility on the campus of Knox Elementary School at 700 W. Orchid Lane, north and east of Ray and Alma School Roads.

1. Expansion or modification of the use beyond approved exhibits shall void the Use Permit and require new Use Permit application and approval.
2. There shall be two live Date Palm trees installed and maintained adjacent to the monopalm. The trees shall be of 25' and 30' in height at the time of planting and shall match the monopalm's appearance.
3. 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.

H. ZUP09-1011 MAACO

**Approved.**

Request Use Permit approval to operate an automotive body repair shop including paint spraying, body, and fender work within a Planned Industrial (I-1) zoned district. The subject site is located at 9 N. Roosevelt Avenue.

1. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
2. The Use Permit is non-transferable to other store locations
3. 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.
4. **Landscaping shall be in compliance with current Commercial Design Standards.**
5. The applicant will abide by all building, fire, and other applicable city regulations including those that pertain to auto repair as a condition of occupancy.
6. No automotive engine work, or associated mechanical work shall be performed.
7. **All storage of vehicles shall be enclosed within a gated area.**
7. **The fencing shall be repaired or replaced in a manner to provide screening of the interior yard.**

I. PPT09-0007 EAST VALLEY TOWN CENTER

**Approved.**

Request Preliminary Plat approval for an existing commercial development located at the northwest corner of Arizona Avenue and Warner Road.

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

**CHAIRMAN FLANDERS** stated before they go to a motion he had a gentleman who would like to speak on Item H on Maaco. He called him forward to make his statement.

**LARRY HUDMAN, 6277 W. CHANDLER BOULEVARD, CHANDLER**, stated this was just north of the property to them. He stated a couple of the owners/tenants in the area had concerns about the paint fumes. In talking with the gentlemen in the office before hand it is probably highly regulated but he does have patients that are outside at times for exercising.

**CHAIRMAN FLANDERS** asked Erik Swanson, City Planner, if he could go through the City's requirement as far as the materials and everything else for the speaker.

**ERIK SWANSON, CITY PLANNER**, said he unfortunately couldn't speak directly on what building codes and what those requirements are. Generally speaking to this, they will have the paint booth interior to the structure that is out there. They will more or less have a building within a building. In that building they will have the necessary ventilation to get rid of those paint fumes as well as a lot of places have an underground water system as well that also picks up the vapors and leftover paint spray. There really should not be any fumes. If in the chance that there are, certainly contact them and they can see what they can do about getting an inspection out there to see if maybe they aren't meeting codes. He did receive another call concerned with paint spraying and apparently the previous owner had a tractor company out there where they would paint in the yard and that was certainly not legal. That is something that won't happen with this and everything will be within that building.

**CHAIRMAN FLANDERS** thanked Mr. Swanson and asked if there was any comments or questions from Commission. He said he will be abstaining on Item I because he does have a "conflict of interest" as he is presently working with the owner of that development on the center.

**MOVED BY COMMISSIONER RIVERS**, seconded by **COMMISSIONER HARTKE** to approve the consent agenda with additional stipulations as read in by Staff. The consent agenda passed unanimously 6-0 (Commissioner McClendon was absent).

**ACTION:**

E. LUP09-1009 THE BOATZHUSE RESTAURANT

**Approved.**

Request Use Permit approval for a Series 12 (Restaurant) liquor license for on-premise consumption only within a new restaurant and outdoor patio. The subject site is located at 5070 S. Gilbert Road, Suite #400, which is west of the southwest corner of Gilbert and Chandler Heights Roads.

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

**MR. SWANSON, CITY PLANNER**, stated before he starts his presentation he needed to mention the addition of condition no. 6. This may address the property owners concerns. The condition was read in as follows:

***The Use Permit shall remain in effect for one year from Council approval. Operation of the Use Permit beyond the one-year time period shall require re-application through an approval by Council.***

This request is a Use Permit request to allow the sale of alcohol under a Series 12 Restaurant License for on-premise consumption within a new restaurant and outdoor patio. The restaurant is located at 5070 S. Gilbert Road, Suite 300. It is roughly the southwest corner of Gilbert and Chandler Heights Roads within that commercial development. The subject is located within the southwest corner of that commercial development and shares the area with an M&I Bank, CVS Pharmacy and then an Auto Zone. The suite is 2300 square feet within a larger 6000 square foot in-line shops building. The outdoor patio is approximately 581 square feet. They did have a neighborhood meeting and nobody showed up. Staff is unaware of any concerns and then with those conditions and the addition of 6, they do recommend approval.

**CHAIRMAN FLANDERS** asked if there were any questions of Staff? There were no questions. He said he would like to go right to the speaker and then have the applicant address any of those issues that the speaker may have.

**KERMIT BARBIER, 2855 E. CHERRYWOOD PLACE, CHANDLER**, stated he had no opposition to having a bar there. However, on Noland, which is the street behind Cherrywood, in the cul-de-sac there is a gate that goes right into the area where the bar is going to be and the sidewalk goes right up to the bar. That gate area has been kind of a problem. Kids hang out around there and then with the traffic and stuff from the bar, some of the neighbors are a little concerned about the gate there. He doesn't know why the gate is there except to give some access to there. They would like to see the gate disappear and have it walled up again. He was out there in the afternoon and took some pictures. The gate is now beat up. They have replaced it a couple of times. There is an old exercise machine out there that he imagines the kids would haul away. He showed some pictures on the ELMO. He showed one picture from Noland looking to the back of

the property and said this was how he found the gate this afternoon. This is the condition of the gate. He said it was hard to see there but the kids have knocked out some boards and stuff and it has always been a problem. He showed inside the gate and where the bar is. It has been a real problem traffic area. He would like to put a brick wall there. That is his only concern there. He has talked to the association and he is not sure what their problem is.

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

**COMMISSIONER HARTKE** asked who owns the gate and the right of the way? Mr. Barbier answered it is the association. **COMMISSIONER HARTKE** asked if it was originally put there so that they would have access out into the shopping center? Mr. Barbier said it was there before anything was on that corner.

**CHAIRMAN FLANDERS** asked Staff what is the history related to that? Is that part of the residential part approval or is it part of the commercial? Mr. Barbier said it was probably the residential because it is in the wall for the subdivision.

**MR. SWANSON, CITY PLANNER**, stated he would imagine that when this came through for the design, the developer staff knew that this was going to be commercial at the corner. More than likely they tried to integrate a pedestrian access point. That is what this is. What they can do to remedy this he doesn't know. They would have to see who the property owner is. Ultimately, they would like to maintain that just because it is kind of a nice feature but there may be ways they could go about providing a little better security - maybe locking it after a certain point in time. He doesn't know. He said it is something that he would have to look into. Mr. Barbier said the impression he got from the association when he brought it up was that it is in the requirements that were required by zoning to have it there which didn't make sense to him.

**CHAIRMAN FLANDERS** said what they are reviewing tonight is the Use Permit. The gate is outside their review. If anybody would do it, probably City Council could address that issue.

**GLENN BROCKMAN, ASST. CITY ATTORNEY**, stated the problem with the gate is that it is part of a wall and the wall isn't even part of the commercial center and certainly not anything that the applicant here would be able to deal with. They want to talk to the Planning Staff separately from this activity or Neighborhood Services too, if there is damage. Mr. Barbier would it be something required by zoning by the subdivision to have that gate there? **MR. BROCKMAN** said it is possible that the gate was shown as part of the development plan that was approved with the zoning but they would have to look that up. Planning Staff can look that up and give him some history on that.

**KEVIN MAYO, ACTING PLANNING MANAGER**, stated they actually encourage pedestrian activity with everything that is developed in the city. A lot of times when they end up with a gate in this location and in this specific case they have vacant buildings that

are right there on the corner. When you don't have tenants in there you don't have the eyes back there and people do loiter and kids kick in the gates. They actually see it as a positive thing getting a user at this corner and having the patio out there. You end up getting people and eyes and life occurring back there. It naturally just forces out the disruptive things that are occurring to that gate. It would be their association that would have to sign off and make it go away. From a zoning standpoint he doesn't necessarily know if there are any codes that says you absolutely have to have it. If there are a lot of people that use that gate in that subdivision, it would need to be more or less voted on and approved by the entire association to make that go away. He would also want to talk to that commercial center's association management company there too. They have paid for a sidewalk to go back to that and their tenants would probably have some interest in keeping that open as well. It probably just comes down to a management of the aesthetics of it and keeping it clean and not allowing debris and if it is broken, immediately fix it so people aren't seeing it as a blighted area. Just keeping people back there will help keep it out. Mr. Barbier said the type of clientele is going to be from a sports bar? Mayo said this is just a restaurant. A Series 12 Restaurant License is the same thing you would see at Chili's and Applebee's. He wouldn't say that this is on the same scale as something like that; it is a much smaller suite in this building. It is just a restaurant. Mr. Barbier said so he should go back to the association to start? **CHAIRMAN FLANDERS** said yes that is correct. Mr. Barbier thanked him.

**CHAIRMAN FLANDERS** said he appreciated his comments. He stated to the applicant he has the opportunity to speak if he would like.

**DAVID BOATZ**, stated he is the person applying for the permit for Boatzhouse. The pictures he showed show the back of it. There is a door back there but that is going away. There is the process of building that out now. That door on the back is going away. If you walk through that walkway, the patio would be up towards the front. The only other door back there is a service door and the front faces the parking lot, which they couldn't see from the pictures.

**CHAIRMAN FLANDERS** asked if the Commission had any questions of the applicant. There were none.

**MR. BARBIER** said the gate is in the back but from the picture it might have been confusing that the front of the bar was there. The front is around the other side.

**CHAIRMAN FLANDERS** said as Mr. Mayo had indicated with the activities of the restaurant it might change the environment back there where the kids aren't going to be hanging out any more because of the activities and the adults are there. Just following up with his HOA would be a good idea and also with Staff here to make sure every opportunity is met that he is looking for.

**CHAIRMAN FLANDERS** closed the floor for a motion.

**MOVED BY COMMISSIONER HARTKE**, seconded by **COMMISSIONER VEITCH** to approve LUP09-1009 THE BOATZHOUSE RESTAURANT with additional stipulations. The item passed unanimously 6-0 (Commissioner McClendon was absent).

6. DIRECTOR'S REPORT

Mr. Mayo stated there was nothing to report this evening.

7. CHAIRMAN'S ANNOUNCEMENTS

CHAIRMAN FLANDERS stated they are getting underway with some public hearings for the new museum. He would like to request a briefing at a Study Session like they did on City Hall for the museum with the design. Basically, so they can see what that looks like and how it relates to the City Hall in the area. Mr. Mayo said he would be happy to pass that along.

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

8. ADJOURNMENT

The meeting was adjourned at 5:53 p.m.

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Michael Flanders, Chairman

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Jeffrey A. Kurtz, Secretary