Chandler • Arizona

2004 Planning & Zoning Commission Minutes

Regular Meetings

January 21, 2004

February 4, 2004

February 18, 2004

March 3, 2004

March 17, 2004

April 7, 2004

April 21, 2004

May 5, 2004

May 19, 2004

June 2, 2004

June 16, 2004

July 7, 2004

July 13, 2004

July 21, 2004

August 4, 2004

August 182004

September 15, 2004

October 6, 2004

October 20, 2004

November 3, 2004

November 17, 2004

December 1, 2004

December 15, 2004

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, January 21, 2004, held in the City Council Chambers, 22 S. Delaware Street.

1. Chairman Ryan called the meeting to order at 5:30 P.M.
2. Pledge of Allegiance lead by Vice Chairman Flanders.
3. The following Commissioners answered Roll Call:

Chairman Phil Ryan	Commissioner Rick Heumann
Vice Chairman Michael Flanders	Commissioner Mark Irby
Commissioner Jeanette Polvani	Commissioner Shiela Schmidt

Absent & Excused: Commissioner Brett Anderson

Also Present:

Mr. Jeff Kurtz, Current Planning Manager
Mr. Geir Sverdrup, Planner II
Ms. Ashley Bailey, Planner
Mr. Glenn Brockman, Assistant City Attorney
Ms. Linda Porter, Secretary

4. APPROVAL OF MINUTES

MOVED BY VICE CHAIRMAN FLANDERS, seconded by COMMISSIONER HEUMANN to approve the minutes of the December 17, 2003 meeting. MOTION WAS APPROVED (6-0).

5. CONSENT AGENDA

CHAIRMAN RYAN recommended that items A, B, C, D, E, F, G, be approved on the Consent Agenda.

JEFF KURTZ, CURRENT PLANNING MANAGER, read into the record an additional condition for Item D, **PDP03-0040 SUN GROVES PARCELS 15 AND 16 – KB HOME**:

7. *"No more than two adjacent homes along Hunt Highway or facing Lindsay Road shall have identical roof ridgelines."*

A. AP03-0001 AIRPARK AREA PLAN AMENDMENT

CONTINUED TO FEBRUARY 18, 2004, a City initiated request to amend the permitted land use designations defined in Chapter 2.4 of the Airpark Area Plan. The proposed amendment would allow public assembly uses, including churches, public and private schools, fitness and recreation facilities, and conference facilities, to locate within a quarter mile corridor along the east side of Arizona Avenue bound by Willis and Appleby Roads and Southern Pacific Railroad.

B. **DVR03-0032 FIRST BAPTIST CHURCH CHANDLER**

CONTINUED TO FEBRUARY 18, 2004, a request for rezoning from Agricultural District (AG-1) to Planned Area Development (PAD) on approximately 35 acres located at the northeast corner of Arizona Avenue and Appleby Road for a church campus with Preliminary Development Plan (PDP) for Phase I.

C. **DVR03-0034 PURCELL'S WESTERN STATES TIRE**

WITHDRAWN, a request for rezoning from Planned Area Development (PAD) to Planned Area Development Amended for general automobile services along with Preliminary Development Plan approval for an approximately 6,800 square foot retail tire store located on an approximately 1 acre site at 1655 West Chandler Boulevard.

D. **PDP03-0040 SUN GROVES PARCELS 15 AND 16 - KB HOME**

APPROVED, a request for Preliminary Development Plan approval for housing products for an approximately 120-lot single-family residential subdivision on approximately 42 acres. The property is located at the northeast corner of Lindsay Road and Hunt Highway.

1. Compliance with original stipulations adopted by the City Council as Ordinance No. 3383, in case DVR02-0018 SUN GROVES PARCELS 13, 15, 16, 22, except as modified by condition herein.

2. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "KB Home Iron Mountain Ranch at Sun Groves Parcels 15 and 16 Preliminary Development Plan" kept on file in the City of Chandler Current Planning Division, in file no. PDP03-0040, except as modified by condition herein.

3. The same front elevation shall not be built on adjacent or opposite lots.

4. Staggered front and rear building setbacks for adjacent house locations shall occur throughout the entire subdivision.

5. Two-story homes along arterial streets are limited to no more than every third lot.

6. When two-story homes are built on adjacent lots, a 20-foot separation of the two-story elements shall be provided between homes.

E. **UP03-0043 MONTESSORI DAY SCHOOL**

APPROVED, a request for Use Permit approval for a Montessori School within the SF 8.5 (single family) zoning district. The school is located at 1700 W. Warner Road at the Valley Universalist Unitarian Church.

1. Expansion or modification beyond the approved exhibits and representations (Site Plan/Floor Plan, Licensure, and Narrative) shall require a new Use Permit application and approval.

2. The retention basin shall be blocked by the installation of a permanent barrier restricting vehicular access. Such a barrier may include substantial landscaping to bollards set in concrete.

F. **UP03-0059 FIREBIRDS ROCKY MOUNTAIN GRILL**

APPROVED, a request for Use Permit approval to sell liquor (Series 12 Restaurant License) at a restaurant located at 3435 W. Chandler Blvd.

1. The Use Permit is for a Series 12 license only, and any change in type of license shall require reapplication and new Use Permit approval.

2. Expansion beyond the approved Floor Plan shall void the Use Permit and require new Use Permit application and approval.

3. The Use Permit is non-transferable to any other store location.

G. **PPT03-0021 / PPT03-0022 SANTAN GATEWAY PARCELS 1 AND 2**

APPROVED, a request for Preliminary Plat approval for a commercial center located at the southeast corner of Arizona Avenue and Pecos Road (Parcel 1) and at the northeast corner of Arizona Avenue and Willis Road (Parcel 2).

MOVED BY COMMISSIONER HEUMANN, seconded by **COMMISSIONER IRBY, TO APPROVE THE CONSENT AGENDA** with the additional condition as read by Staff. **MOTION WAS APPROVED (6-0).**

6. DIRECTOR'S REPORT – no report.

7. CHAIRMAN'S ANNOUNCEMENT

Chairman Ryan announced that Geir Sverdrup, Planner II would be leaving the City of Chandler Planning staff to pursue a career in photography. Chairman Ryan wished him the best of luck and success. The next regular meeting was set for February 4, 2004, at 5:30 P.M. in the Council Chambers.

8. ADJOURNMENT

The meeting was adjourned at 5:35 P.M.

_____
Phil Ryan, Chairman

_____
Douglas A. Ballard, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, February 4, 2004, held in the City Council Chambers, 22 S. Delaware Street.

1. Chairman Ryan called the meeting to order at 5:46 P.M.
2. Pledge of Allegiance lead by Commissioner Brett Anderson.
3. The following Commissioners answered Roll Call:

Chairman Phil Ryan	Commissioner Mark Irby
Vice Chairman Michael Flanders	Commissioner Shiela Schmidt
Commissioner Rick Heumann	Commissioner Brett Anderson

Absent & Excused: Commissioner Jeanette Polvani

Also Present:

Mr. Doug Ballard, Planning & Development Director
Mr. Jeff Kurtz, Current Planning Manager
Ms. Ashley Bailey, Planner
Mr. Kevin Mayo, Planner
Mr. Glenn Brockman, Assistant City Attorney
Ms. Linda Porter, Secretary

4. APPROVAL OF MINUTES

MOVED BY VICE CHAIRMAN FLANDERS, seconded by COMMISSIONER IRBY to approve the minutes of the January 21, 2004 meeting. MOTION WAS APPROVED (6-0).

5. CONSENT AGENDA

MR. JEFF KURTZ, CURRENT PLANNING MANAGER, stated that there are a number of additional conditions, all of which the applicants are in agreement with.

In response to an earlier question during Study Session on **Item A, Dobson Place II** with regard to Galveston Road. **CHAIRMAN RYAN** had made a comment about the entry road off Gilbert Road into the subdivision, half of it being on the adjacent property. He asked if there was a letter from the adjacent property owner agreeing with the road improvement, or, were there only half-street improvements being made.

Mr. Kurtz explained that this part of Galveston Road is already dedicated. He said that this is an old remnant right-of-way when Galveston was dedicated years back. The new road does not encroach onto anyone's property; it's on the Galveston Road right-of-way.

The two new stipulations are:

#16. "*The applicant shall work with Staff to ensure the third car garage option is architecturally integrated with the balance of the homes.*" As an aside, Mr. Kurtz

stated that there are a variety of different elevation views given. On some of the elevation A's it showed the garage; some of the B's showed the bonus room. They are included within the exhibits, and Staff will be glad to make sure they get architecturally coordinated.

#17. *"The theme wall shall match the existing theme wall in Dobson Place."* The applicant will go ahead and match what is already out there without adding anything different.

Item B, Watermark at Ocotillo, Staff would like to add an additional condition no.12:

#12. *"There shall be no more than three (3) adjacent 2-story homes located along the lake frontage."*

Mr. Kurtz stated that he missed discussing with the applicant the question about the front yard setback, and requested that we return to condition #13 at a later time.)

Mr. Kurtz stated that there were no additional conditions added to Item C, City Initiative Southwest Corner of Gilbert Road and Queen Creek Road.

Item D, London Gold, Mr. Kurtz stated that Staff is proposing additional stipulations, which the applicant has agreed to:

#6. *"There shall be 4 date palms to be located at the southeast corner of the building with the details to be worked out with Staff."*

#7. *"One tenant panel shall be deleted from the south elevation."*

Item E, Famous Dave's Restaurant, Mr. Kurtz stated that Staff is proposing an additional stipulation no. 4 that the applicant is in agreement.

#4. *"The applicant shall work with Staff to incorporate additional materials to reduce the amount of wood siding."*

CHAIRMAN RYAN stated that he would be abstaining on **Item F**, as he was a consultant to the homebuilder.

Mr. Kurtz said that an additional condition no. 7 was recommended for **Item F, McQueen Lakes – Trend Homes**, which the applicant is in agreement with.

#7. *"The applicant shall work with Staff to modify the massing of the second story element on model 210."*

CHAIRMAN RYAN stated that there were no additional stipulations to **Item G, Layton Lakes.** In addition, there were no additional stipulations to **Item H, Ocotillo Towne Center.**

COMMISSIONER RICK HEUMANN requested clarification on Item B with regard to #12.*"There shall be no more than three (3) adjacent two-story homes located along the lake frontage."* He said there was a potential to have 15, two-story homes out of a potential 19 homes. Mr. Kurtz said that would be the extreme condition. That would eliminate entire block massing of two-story homes and introduce some variation of breaks into it. He added that if you look at the plan, there's the community recreation facility, which provides a break between those lots. Mr. Heumann questioned the size of the recreation facility. Mr. Kurtz answered that the facility was about the size of a lot and was a single level building, but did not know the size of the building. Commissioner Heumann requested this item be taken to the Action Agenda for further discussion.

A. DVR02-0022 DOBSON PLACE II

APPROVED, a request for rezoning from Agricultural (AG-1) to Planned Area Development (PAD) along with Preliminary Development Plan approval for a single-family residential subdivision located on approximately 14 acres at the northwest corner of Gilbert Road and Galveston Street.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "DOBSON PLACE II", kept on file in the City of Chandler Planning Services Division, in File No. DVR02-0022, except as modified by condition herein.

2. Completion of the construction, where applicable, of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details, and design manuals.

3. Right-of-way dedications to achieve full half widths for Gilbert Road and Emmett Drive, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.

4. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.

5. The landscaping in all open-spaces and rights-of-way as well as all perimeter fences and view walls, shall be maintained by the adjacent property owner or a homeowners' association.

6. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls.

7. The homes shall have all copper plumbing for those lines under water pressure.

8. The covenants, conditions and restrictions (CC & R's) to be filed and recorded with the subdivision shall mandate the installation of front yard landscaping within 180 days from the date of occupancy.

9. Future median openings shall be located and designed in compliance with City adopted design standards (Technical Design Manual # 4).

10. The building minimum setbacks shall be a minimum 18-foot front yard setback to the face of the garage, 10-foot front yard setback for side-entry garages/livable space, 20-foot rear yard setback, and 5-foot and 10-foot side yards setbacks

11. All homes shall feature standard covered patios.

12. Undergrounding of all overhead electric (under 69KV), communications and television lines and any open irrigation ditches or canals located on the site or within adjacent right-of-ways and/or easements in accordance with City adopted design and engineering standards.

13. When two-story homes are built on adjacent lots, a 20-foot separation shall be provided between homes.

14. All homes built on corner lots within the residential subdivision shall be single story.

15. All homes built on Lots 39-49 shall be single-story.

C. <u>DVR03-0012 CITY INITIATIVE SOUTHWEST CORNER OF GILBERT ROAD AND QUEEN CREEK ROAD</u>

APPROVED, City of Chandler Initiative for approval of the establishment of initial City zoning of Agricultural District (AG-1) on approximately 17 acres located at the southwest corner of Gilbert Road and Queen Creek Road.

D. <u>PDP03-0023 LONDON GOLD</u>

APPROVED, a request for Preliminary Development Plan (PDP) approval for site layout and building architecture for an approximate 1.42-acre retail development within a PAD zoning district for property located at the northwest corner of Chandler Boulevard and Price Freeway.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "London Gold", kept on file in the City of Chandler Planning Services Division, in File No. PDP03-0023, except as modified by condition herein.

2. The landscaping in all open spaces and rights-of-way shall be maintained by the adjacent property owner or property owners association.

3. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls.

4. Sign packages, including free-standing signs as well as wall mounted signs, shall be designed in coordination with landscape plans, planting material, storm water retention requirements and utility pedestals, so as not to create problems with sign visibility or prompt the removal of required landscape material.

5. Monument sign shall be limited to two tenant panels as per the Sign Code.

E. <u>PDD03-0050 FAMOUS DAVE'S RESTAURANT</u>

APPROVED, a request for Preliminary Development Plan approval for a new restaurant to be located on the north side of Frye Road west of the Price Freeway (SR 101).

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Famous Dave's Restaurant Preliminary Development Plan Application", kept on file in the City of Chandler Planning Services Division, in File No. PDP03-050, except as modified by condition herein.

2. Completion of the construction of all required offsite street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard detail, and design manuals.

3. Sign packages, including free-standing signs as well as wall mounted signs, shall be designed in coordination with landscape plans, planting material, storm water retention requirements and utility pedestals, so as not to create problems with sign visibility or prompt the removal of required landscape material.

F. <u>PDP03-0044 MCQUEEN LAKES – TREND HOMES</u>

APPROVED, a request for Preliminary Development Plan approval for housing products for a 94-lot single-family residential subdivision on approximately 30 acres. The property is located at the northwest corner of McQueen Road and Blue Ridge Way (one-quarter mile north of Chandler Heights Road).

1. Compliance with original stipulations adopted by the City Council as Ordinance No. 3383, in case DVR02-0006 MCQUEEN LAKES, except as modified by condition herein.

2. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "McQueen Lakes" kept on file in the City of Chandler Current Planning Division, in file no. PDP03-0044, except as modified by condition herein.

3. The same front elevation shall not be built on adjacent or opposite lots.

4. Staggered front and rear building setbacks for adjacent house locations shall occur throughout the entire subdivision.

5. When two-story homes are built on adjacent lots, a 20-foot separation of the two-story elements shall be provided between homes.

6. No more than two adjacent homes along McQueen Road and Crossbow Way shall have identical roof ridgelines.

7. Homebuilder will advise all prospective homebuyers of the information on future City facilities contained in the City Facilities map found at www.chandleraz.gov/infomap, or available from the City's Communication and Public Affairs Department.

G. PDP03-0038/PPT03-0012 LAYTON LAKES

APPROVED, a request for Preliminary Development Plan (PDP) and Preliminary Plat (PPT) approval for site layout and subdivision diversity for Phases 2, 3, and 4 of a 567-lot master planned community on approximately 342.4 acres located at the southeast corner of Gilbert and Queen Creek Roads.

1. Compliance with original stipulations adopted by the City Council as Ordinance No. 3250, in case DVR00-0025 LAYTON LAKES.

2. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "LAYTON LAKES – SUBDIVISION DIVERSITY" kept on file in the City of Chandler Current Planning Division, in file number PDP03-0038, except as modified by condition herein.

3. The landscaping in all open spaces and rights-of-way shall be maintained by the adjacent property owner or property owners' association.

4. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls.

5. Sign packages, including free-standing signs as well as wall-mounted signs, shall be designed in coordination with landscape plans, planting materials, storm water retention requirements, and utility pedestals, so as not to create problems with sign visibility or prompt the removal of required landscape materials.

6. Parcels 17, 18, 23, and 25 will require future PDP approvals.

7. All housing product will require future PDP approval.

Staff recommends approval of the Preliminary Plat subject to the following condition:

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.

H. PPT03-0020 OCOTILLO TOWNE CENTER

APPROVED, a request for Preliminary Plat approval for a commercial retail shopping center located at the northeast corner of Alma School Road and Queen Creek Road.

MOVED BY COMMISSIONER HEUMANN, seconded by **VICE CHAIRMAN FLANDERS, TO APPROVE THE CONSENT AGENDA** with the additional conditions as read by Staff. **MOTION WAS APPROVED (6-0).** Chairman Ryan again stated that his motion did not include Item F, McQueen Lakes – Trend Homes, as he was a consultant on that project.

6. ACTION ITEM

B. WATERMARK AT OCOTILLO

MR. KURTZ stated the application is an application by Camelot Homes to develop a single-family parcel within the Ocotillo master plan. The request includes an Area Plan amendment, along with a Rezoning of the property, Preliminary Development Plan, and a Preliminary Plat. This property was planned and zoned as part of the second phase of Ocotillo, and the property was designated through the Area Plan, and following that, the zoning for Multi-family development.

Mr. Kurtz went on to say that, because this application is for a Single-Family home development, it requires an amendment to the Area Plan, which is being presented to Commission and recommending approval. The second and several other parts of the development request are the rezoning, Commission is being asked to consider making a recommendation on a single-family subdivision that includes 57 lots on a residential subdivision that is gated. It is a private street development. Overall parcel size is almost 20 acres, and the resulting density is 3.1 units per acre. The homes being proposed by Camelot Homes are architecturally diverse and represent a great quality in architectural design. The homes range in size from a little bit over 2,600 sq. ft. up to a bit over 3,900

sq. ft. There are three single-story buildings and three, two-story buildings. The two-story buildings are not all pure two-story buildings. Two of them have one- and two-story elements that are part of the architectural design. The lot sizes in the subdivision have a typical lot of 8,400 sq. ft. in size, but they do range, based upon the peculiar shape of the property and the actual subdivision layout, from a little bit over 8,200 sq. ft. up to the largest lot that is a little bit over 18,000 sq. ft.

A neighborhood meeting was held with residents from the Ocotillo community. Several residents that attended expressed appreciation for the development in terms of the development quality. Staff is not aware of any outstanding neighborhood issues.

Staff has reviewed the development based upon the Residential Diversity Standards. The development meets all of the required residential diversity standards and also 10 of the optional diversity standards of the subdivision design. They also meet nine of the optional residential standards.

Mr. Kurtz went on to say that during the Study Session there was dialog about the amount of two-story homes that should be permitted along the lake, which is the eastern side of the property. The concern was not wanting to create all two-story homes and creating a large building mass. The applicant has agreed to limit that to no more than three in a row. The second issue had to do with the proposal to have a reduced front setback, primarily at a 12 ft. mark to some parts of the house and extending up to 15 ft. on one of the products. Commission's concern raised at the Study Session was not overall concern that the setback was too close, but are some of the particulars of certain areas along the development where it would be more appropriate to have a wider setback and create a more varied streetscape. Mr. Kurtz stated that Staff has prepared stipulations based on the Commission's dialog. Staff recommends approval.

CHAIRMAN RYAN stated that he would like to put some limitation on two of the two-story product. He stated that there are only two that are only partial two-story. The massing is such that it's not going to look bad from the lake or streets. The massing he felt was just done perfect. He stated he had concerns with massing on the 65-5 and 65-11, and that he wanted to see limitations along the lake edge and maybe along the arterial streets. He commented that when looking at 65-11, the two-story element goes almost from the front all the way to the back, which is more "box-on-box" than Commission would like to see, and that these are the ones that they try to limit from the street and public views. Also the 65-5 has some of the same features. The 65-10 is in between. It has enough broken ridgelines and the massing that it does not give the "box on box" feeling that you get with the other two. The 65-12 has very little two-story on that product.

Mr. Ryan went on to explain that he felt there should be a limitation on those two plans because of the massing. He felt it should be limited on a percentage basis.

TOM KIRK, CAMELOT HOMES, 6607 N. Scottsdale Road, Scottsdale, AZ. stated that the concern rested with the number of two-story of this nature along the lake.

Chairman Ryan stated that it was a concern along the lake and along the arterial, the arterial being Dobson. Mr. Kirk explained that what they had tried to do in designing the neighborhood was to create separation from the arterial by putting an interior collector street up against Dobson Road, so that there are no two-story products backing up to Dobson. Along Dobson, their homes would only front onto the interior street.

Chairman Ryan agreed that was the case, so their only concern would then be those homes along the lake. Mr. Kirk stated that regarding the two particular plans, Camelot Homes would be agreeable to restrict the number of those that would sit adjacent to one another, and the proposal would be no more than three of those two plans adjacent to one another before being separated by a single story or one of the other plans.

COMMISSIONER HEUMANN stated the concern was that two of the plans are rather boxy, and to try and limit those two plans to "x" amount along the whole frontage. There are two, two-stories that have one- and two-story elements that are not as boxy. He stated he'd like to limit the two plans that are so boxy. Mr. Heumann felt the lake is important, and that he wanted to avoid the boxiness and massiveness on the two-stories along the lake.

Mr. Kirk said that there are 20 total lakefront lots that are separated by a recreational amenity between lots 43 and 42, and there's a drainage easement between lots 37 and 36, which is approximately 20' wide.

Mr. Heumann said he did not see that the drainage breaks up the massing that much, and that he did not want to see five, two-story homes next to each other. Mr. Kirk confirmed that he would limit it to no more than three, two-story homes in a row. A discussion ensued as to the number of lots that could be two-story and the range of lots that the limitation would affect. Mr. Heumann stated that for lots 43-47, three of those could be two-story, however they would want to do it; and then from 28-42, (15 lots), 10 of them two-stories with no more than two of the plans that Mr. Ryan spelled out, to eliminate two of those being next to each other. Ten of them can be two-story, ending up with thirteen of the 20 lots would then be two-story, but without the two plans Mr. Ryan identified being next to each other at any time. Mr. Kirk summarized, it was decided that between lots 42 and 28, of those 15 lots no more than 10, two-story homes. Mr. Heumann interjected that at no time no more than two of the plans identified by Mr. Ryan, shall be next to each other. Mr. Kirk stated that 65-5 and 65-11 couldn't be situated side-by-side along the lake. Mr. Kirk said that was acceptable.

COMMISSIONER IRBY said that his concern was the setback from the street. For example, lots 37 through 31 curve nicely, the street bends, but lots 5-12 and 38 through 47 are pretty much a straight run of street. He requested that there be a bigger variation in street setbacks to break up the long alley of buildings. Mr. Kirk said that, while the closest structural element may be 12' to the road, the plans themselves have a fairly significant amount of relief within the plan. They do not have the front elevation of any of the plans run on a continuous plane without some interruption. There is usually a fair amount of setback between the structural elements. He stated they would prefer not to

have to do that. He felt that Mr. Irby's concerns have been mitigated through the movement of the front elevation on the plans. Mr. Kirk and the Commission at this time referred to the color renderings in the Development Booklet. Mr. Kirk stated that they felt they had done an exemplary job of creating relief in and of itself.

COMMISSIONER IRBY said he somewhat agreed but felt it doesn't go far enough. He said that plans 65-10 and 65-11 are going to look pretty flat along the front elevation. He agreed that some of the variations in the plan help to alleviate that, but said he also felt that there's enough back yard space to occasionally, every third lot, to give it an extra 5 ft. of setback to help avoid having too large of a mass along the street.

CHAIRMAN RYAN suggested that, because of the depth of the rear yards, 65-11 and 65-5 could be pushed back another 5-7 ft. Mr. Kirk responded that they have tried to create as big of a rear yard as they could offer and from a marketing standpoint it is an advantage. Consideration was also given to having the rear of the buildings as far away from the lake as possible, trying to be sensitive to the residents across the lake. He went on to say that the 65-5 has the least amount of elevation. Mr. Kirk stated that he thought it was their intention to vary the setback from plan to plan when they have an extra deep lot, but to be required to force it 5ft. is something they would like to avoid.

COMMISSIONER IRBY stated he wanted to stipulate some kind of additional 5 ft. to 7 ft. setback on lots 5-12 and lots 39-46, and the rest of the lots would take care of themselves due to the undulated street or very few houses being up against each other. The extra deep lots on 43, 44, 45, and 46 will help also.

Mr. Kirk confirmed that every third house gets an additional 5 ft.-7 ft. setback, regardless of the plan. Commissioner Irby concurred and said that the plans on top of that will give it some visual appearance of staggering.

At this time Mr. Kirk commented that this suggestion is something that they would consider, but that he needed some time to review this with his team. He requested a continuance to give them time for evaluation. Mr. Kurtz advised the applicant that our Commission meets every two weeks if that was his preference. Mr. Kirk stated he would like the opportunity to come back on February 18th after his review and evaluation.

CHAIRMAN RYAN asked Mr. Kurtz about the cross-section of the interior street and if there was sidewalk on both sides of the street. Mr. Kurtz stated there was not and referred to an exhibit in the staff memo showing street cross-sections, and a discussion ensued regarding width of streets and property lines. Mr. Kirk stated he believed the setbacks were from the property line, not back of sidewalk. Mr. Ryan stated that they are from the property line, but the problem lies with not knowing where the property line is relevant to the back of the sidewalk or curb. Mr. Kurtz stated that staff would look at a detail of that.

COMMISSIONER ANDERSON commented that he was familiar with this product, which was built in a Gilbert subdivision, and plan 65-5 was one of the more popular

models. He stated that he agreed with the 65-5, which had a boxier back to be able to move it around a lot, but overall the project in Gilbert was an outstanding project. Mr. Kirk stated that most of these plans are new from that neighborhood; they are a takeoff from that style. He went on to say there are a lot of similarities in the relief they've tried to build into the elevations, but these are brand new plans. He said they felt they've gone to a great extent to make it somewhat unique to what one might normally see.

COMMISSIONER ANDERSON asked if they would be requiring every homeowner to install one or two elms within 8 ft. from back of walk. Mr. Kirk stated they intend to comply with the Ocotillo design guidelines. Chairman Ryan commented that street landscaping, and on the interior as well, makes a big difference in the street scene. All that kind of information is important, and requested the applicant to bring that information back to Commission. Mr. Kirk stated okay.

MOVED BY COMMISSIONER HEUMANN, SECONDED BY COMMISSIONER IRBY, TO CONTINUE AP03-0004/DVR03-0033/PPT03-0019 WATERMARK AT OCOTILLO TO THE FEBRUARY 18, 2004, PLANNING AND ZONING COMMISSION MEETING. MOTION WAS APPROVED (6-0).

7. DIRECTOR'S REPORT – no report.

8. CHAIRMAN'S ANNOUNCEMENT

The next regular meeting was set for February 18, 2004, at 5:30 P.M. in the Council Chambers.

9. ADJOURNMENT

The meeting was adjourned at 6:30 P.M.

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Phil Ryan, Chairman

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Douglas A. Ballard, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, February 18, 2004, held in the City Council Chambers, 22 S. Delaware Street.

1. Chairman Ryan called the meeting to order at 5:52 P.M.
2. Pledge of Allegiance lead by Commissioner Schmidt.
3. The following Commissioners answered Roll Call:

Chairman Phil Ryan	Commissioner Mark Irby
Vice Chairman Michael Flanders	Commissioner Shiela Schmidt
Commissioner Rick Heumann	Commissioner Jeanette Polvani

Absent & Excused: Commissioner Brett Anderson

Also Present:

Mr. Jeff Kurtz, Current Planning Manager
Mr. Bob Weworski, Principle Planner
Ms. Ashley Bailey, Planner
Mr. Kevin Mayo, Planner
Mr. Thomas Ritz, Planner
Ms. Jodie Novak, Planner
Mr. Glenn Brockman, Assistant City Attorney
Ms. Linda Porter, Secretary

4. APPROVAL OF MINUTES

MOVED BY COMMISSIONER SCHMIDT, seconded by VICE CHAIRMAN FLANDERS to approve the minutes of the February 4, 2004 meeting. MOTION WAS APPROVED (6-0).

5. CONSENT AGENDA

CHAIRMAN RYAN stated that all the items, with the exception of items A and B, are on the Consent Agenda. In addition, there are some additional stipulations.

JEFF KURTZ, CURRENT PLANNING MANAGER stated there was an additional stipulation to Item D: **AP03-0004/DVR03-0033/PPT03-0019 Watermark at Ocotillo:**

15. ***"Plans 65-12 and 65-14 shall be prohibited on Lots 7 and 10."***

Item E: **UP03-0056 Tamra Tilton, CPA, PC,** a modification to Stipulation No. 2, striking several words, which now reads as follows:

2. ***"Any changes or expansion of the facilities and/or site improvements beyond those shown and approved exhibits shall void the Use Permit."***

Item F: **UP04-0001 Swaddee Thai Cuisine**, recommending additional stipulation no. 5:

5. ***"The Use Permit shall remain in effect for one year from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler."***

C. DVR03-0030/PPT03-0013/PPT03-0014 DOBSON CROSSING
WITHDRAWN FOR THE PURPOSE OF RE-ADVERTISING TO THE MARCH 3, 2004 PLANNING AND ZONING COMMISSION MEETING, a request for amendment to the Section 16 Area Plan, re-designating an approximate 158.4-acre parcel located at the southwest corner of Arizona Avenue and Queen Creek Road, from Commercial to Commercial, Office, Medium-Density Single-Family, and Low-Density Single-Family. In addition request rezoning from Agricultural District (AG-1) to Planned Area Development (PAD) for a commercial shopping center, a commercial office development, a 4.6 dwelling units per acre medium-density single-family subdivision, and a 3.2 dwelling units per acre single-family subdivision, along with Preliminary Development Plan (PDP) and Preliminary Plat approval for subdivision layout and housing product for the residential subdivisions.

D. AP03-0004/DVR03-0033/PPT03-0019 WATERMARK AT OCOTILLO
APPROVED, a request for Area Plan amendment for Ocotillo Phase 2 from Multi-Family to Single Family, and rezoning from Planned Area Development (PAD) Multi-Family to Planned Area Development (PAD) Single Family along with Preliminary Development Plan approval for the subdivision layout and housing product, and Preliminary Plat approval for a 57-lot single-family residential subdivision located on approximately 19.5 acres south of Ocotillo Road on the east side of Dobson Road.

1. Right-of-way dedications to achieve full half widths for all streets, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.
2. Undergrounding of all overhead electric (less than 69kv), communication, and television lines and any open irrigation ditches or canals located on the site or within adjacent right-of-ways and/or easements. Any 69kv or larger electric lines that must stay overhead shall be located in accordance with the City's adopted design and engineering standards. The aboveground utility poles, boxes, cabinets, or similar appurtenances shall be located outside of the ultimate right-of-way and within a specific utility easement.
3. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine

compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.

4. The source of water that shall be used on the open space, common areas, and landscape tracts shall be reclaimed water (effluent). If reclaimed water is not available at the time of construction, and the total landscapable area is 10 acres in size or greater, these areas will be irrigated and supplied with water, other than surface water from any irrigation district, by the owner of the development through sources consistent with the laws of the State of Arizona and the rules and regulations of the Arizona Department of Water Resources. If the total landscapable area is less than 10 acres in size, the open space common areas, and landscape tracts may be irrigated and supplied with water by or through the use of potable water provided by the City of Chandler or any other source that will not otherwise interfere with, impede, diminish, reduce, limit or otherwise adversely affect the City of Chandler's municipal water service area nor shall such provision of water cause a credit or charge to be made against the City of Chandler's gallons per capita per day (GPCD) allotment or allocation. However, when the City of Chandler has effluent of sufficient quantity and quality which meets the requirements of the Arizona Department of Environmental Quality for the purposes intended available to the property to support the open space, common areas, and landscape tracts available, Chandler effluent shall be used to irrigate these areas.

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

5. Completion of the construction of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details, and design manuals.

6. The developer shall be required to install landscaping in the arterial street median(s) adjoining this project. In the event that the landscaping already exists within such median(s), the developer shall be required to upgrade such landscaping to meet current City standards.

7. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Watermark at Ocotillo" kept on file in the City of Chandler Planning Services Division, in File No. DVR03-0033, except as modified by condition herein.

8. The covenants, conditions and restrictions (CC & R's) to be filed and recorded with the subdivision shall mandate the installation of front yard landscaping within 180 days from the date of occupancy with the homeowners' association responsible for monitoring and enforcement of this requirement.
9. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or a homeowners' association.
10. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Public Works for arterial street median landscaping.
11. The homes shall have all copper plumbing for those lines under water pressure.
12. Homebuilder will advise all prospective homebuyers of the information on future City facilities contained in the City Facilities map found at www.chandleraz.gov/infomap, or available from the City's Communication and Public Affairs Department.
13. Lots 43-47 shall be restricted to a maximum of three 2-story homes. Lots 28-42 shall be restricted to a maximum of ten 2-story homes. No more than two consecutive 6511 or 6505 plans shall be built next to each other.
14. Lots 39-46 shall have an additional 5-foot to 7-foot front yard setback for every third home.

E. <u>UP03-0056 TAMRA TILTON, CPA, PC</u>

APPROVED, request for Use Permit extension approval to continue the operation of a tax and accounting office within a single-family residence located at 598 W. Chandler Blvd.

1. The Use Permit shall be effective for three (3) years from the date of Council approval. Use Permit extensions, for similar or greater time periods, shall be subject to re-application to and approval by the City of Chandler.

2. The Use Permit approval is for five (5) full and part-time employees, any changes or expansion of facilities and/or site improvements beyond those shown in approved exhibits shall void the Use Permit.

3. There shall be no tandem parking in the designated parking spaces at the rear of the property.

4. Parking along Hartford Street is not permitted for either employees or clients.

F. <u>UP04-0001 SWADDEE THAI CUISINE</u>

APPROVED, request for Use Permit approval to sell liquor (Series 12 Restaurant License) at a restaurant at 5055 W. Ray Road, Suite B8.

1. The Use Permit is for a Series 12 license only, and any change in type of license shall require reapplication and new Use Permit approval.

2. Expansion beyond the approved Floor Plan shall void the Use Permit and require new Use Permit application and approval.

3. Any substantial change in the floor plan to include such items as, but not limited to, additional bar serving area or the addition of entertainment related uses shall require reapplication of the Use Permit.

4. The Use Permit is non-transferable to any other store location.

G. PDP03-0046 SUN GROVES PARCEL 22 (SUNWEST COMMUNITIES)

APPROVED, a request for Preliminary Development Plan approval for housing products for an approximately 123-lot single-family residential subdivision on approximately 40 acres. The property is located at the northwest corner of Val Vista Road and Hunt Highway.

1. Compliance with original stipulations adopted by the City Council as Ordinance No. 3383, in case DVR02-0018 SUN GROVES PARCELS 13, 15, 16, 22, except as modified by condition herein.

2. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Sun Groves Parcel 22…" kept on file in the City of Chandler Current Planning Division, in file no. PDP03-0046, except as modified by condition herein.

3. The same front elevation shall not be built on adjacent or opposite lots.

4. Staggered front and rear building setbacks for adjacent house locations shall occur throughout the entire subdivision.

5. Two-story homes along arterial streets are limited to no more than every third lot.

6. When two-story homes are built on adjacent lots, a 20-foot separation of the two-story elements shall be provided between homes.

7. No more than two adjacent homes along Val Vista Road and Hunt Highway shall have identical roof ridgelines.

8. Homebuilder will advise all prospective homebuyers of the information on future City facilities contained in the City Facilities map found at www.chandleraz.gov/infomap, or available from the City's Communication and Public Affairs Department.

9. Prior to the time of making any lot reservations or subsequent sales agreements, the home builder/lot developer shall provide a written disclosure statement, for

the signature of each buyer, acknowledging that the subdivision is located adjacent to or nearby an aircraft engine testing facility and an airplane aerobatic training area that may cause adverse noise, odors, and other externalities. The "Public Subdivision Report", "Purchase Contracts", and CC&R's shall include a disclosure statement outlining that the site is adjacent to or nearby an aircraft engine testing facility and an airplane aerobatic training area, and the disclosure shall state that such uses are legal and should be expected to continue indefinitely. The disclosure shall be presented to prospective homebuyers on a separate, single form for them to read and sign prior to or simultaneously with executing a purchase agreement. This responsibility for notice rests with the homebuilder/lot developer and shall not be construed as an absolute guarantee by the City of Chandler for receiving such notice.

G. PDP03-0048 MARKWOOD NORTH (TREND HOMES)

APPROVED, a request for Preliminary Development Plan approval for housing products for an approximate 405-lot single-family residential subdivision on approximately 157 acres. Housing product approval includes housing plans 303 and 304 for entire subdivision and housing plan 301 for lots 1-135 and 142-276 (270 lots). This property is located east of the southeast corner of Queen Creek Road and Cooper Road.

1. Development shall be in substantial conformance with Exhibit "A", Development Booklet, entitled, "Markwood North for Plans 301, 303, & 304" - Preliminary Development Plan", kept on file in the City of Chandler Planning Services Division, in File No. PDP03-0048, except as modified by condition herein.

2. Compliance with the original stipulations adopted by the City Council as Ordinance 3124, case PL99-0041 Markwood Farms, except as modified in condition herein.

3. All homes built on corner lots within the residential subdivision shall be single-story or a combination of one- and two-story homes as defined in the residential diversity elements.

4. No more than two adjacent lots shall have identical rooflines on the rear elevation visible from arterial streets.

5. The same elevation shall not be built side-by-side or directly across the street from one another.

6. All housing plans shall provide standard rear yard covered patios.

7. For those lots abutting Cooper Road, Queen Creek Road, and Emmett Drive no less than 50 percent of the homes shall be one-story and there may be no more than two side-by-side two-story homes.

8. Prior to the time of making any lot reservations or subsequent sales agreements, the home builder/lot developer shall provide a written disclosure statement, for the signature of each buyer, acknowledging that the subdivision is located adjacent to or nearby an future heliport at the Chandler Municipal Airport that may cause adverse noise, odors, and other externalities. The "Public Subdivision Report", "Purchase Contracts", and CC&R's shall include a disclosure statement outlining that the site is adjacent to or nearby a future heliport, and the disclosure shall state that such uses are legal and should be expected to continue indefinitely. The disclosure shall be presented to prospective homebuyers on a separate, single form for them to read and sign prior to or simultaneously with executing a purchase agreement. This responsibility for notice rests with the homebuilder/lot developer and shall not be construed as an absolute guarantee by the City of Chandler for receiving such notice.

9. Prior to the time of making any lot reservations or subsequent sales agreements, the home builder/lot developer shall provide a written disclosure statement, for the signature of each buyer, acknowledging that the subdivision is located adjacent to or nearby an existing landfill and future transfer station that may cause adverse noise, odors, and other externalities. The "Public Subdivision Report", "Purchase Contracts", and CC&R's shall include a disclosure statement outlining that the site is adjacent to or nearby an existing landfill and future transfer station, and the disclosure shall state that such uses are legal and should be expected to continue indefinitely. The disclosure shall be presented to prospective homebuyers on a separate, single form for them to read and sign prior to or simultaneously with executing a purchase agreement. This responsibility for notice rests with the homebuilder/lot developer and shall not be construed as an absolute guarantee by the City of Chandler for receiving such notice.

10. Homes with two-story elements where the two-story elements are built side-by-side shall have a 20-foot separation between homes.

11. Homebuilder will advise all prospective homebuyers of the information on future City facilities contained in the City Facilities map found at www.chandleraz.gov/infomap, or available from the City's Communication and Public Affairs Department.

MOVED BY COMMISSIONER POLVANI, seconded by **VICE CHAIRMAN FLANDERS, TO APPROVE THE CONSENT AGENDA** with the additional conditions as read by Staff. Chairman Ryan stated that his motion did not include Item H – PDP03-0048 Markwood North (Trend Homes), as he is a consultant on that project. **MOTION WAS APPROVED (6-0).**

6. ACTION ITEMS

A. AP03-0001 AIRPARK AREA PLAN AMENDMENT

ASHLEY BAILEY, PLANNER I, stated that AP03-0001 Airpark Area Plan Amendment is requesting to amend permitted land use designations within the Airpark Area Plan to allow additional commercial uses and public assembly uses to include such uses as fitness and recreation facilities, conference facilities, public and private schools, and churches along a portion of the east side of Arizona Avenue, that portion being the quarter-mile corridor between Arizona Avenue and the Southern Pacific Railroad, and from Willis Road south to Appleby Road. Staff finds that these are to be transitional land uses and compatible with the adjacent commercial and residential uses that have developed along the west side of Arizona Avenue, and that these uses will not deteriorate the areas potential, but rather expand the potential for compatible uses and contribute to the Airpark Area Plan successful implementation. Ms. Bailey went on to say that, through discussion during the Study Session, Staff is aware of Commission's concern that this is a broad base plan, and Staff would be happy to continue this case to April 21st to work on a more site-specific plan.

ED BULL, 702 E. Osborn, representing First Baptist Church Chandler, stated that the Church requests the Area Plan Amendment be approved, and if it can't be approved in its entirety, they would then request that it would be approved as to the Church property so that they can proceed the zoning and development of the Church property.

COMMISSIONER HEUMANN commented that this item was pulled from the Consent Agenda for several different reasons, not to slow down the church, but to give Staff time to go back and evaluate. He stated that before overlaying this area for potential public assemblies, that we take a harder look at the situation.

VICE CHAIRMAN FLANDERS stated he thought that, with the area evolving as it is, this Area Plan Amendment is a good idea. He went on to say that Staff needs time to work out as far as the potential users. As far as the corridor he stated that eliminating the heavier industrial employment in this area is a good idea. He went on to say that he saw this area more as a service oriented type uses along this area.

COMMISSIONER IRBY asked that Staff study the west side of Arizona Avenue to see how the two sides compare with each other as the impacts are studied.

MOTION BY COMMISSIONER HEUMANN TO AMEND THE OVERLAY AT THIS TIME, APPLYING ONLY TO "FIRST BAPTIST CHURCH CHANDLER" REFERENCING ONLY TO PROPERTY, AND DIRECTS STAFF TO COME BACK ON APRIL 21ST WITH A MORE DIFINITIVE PLAN FROM WILLIS ROAD ON DOWN TO THIS PROPERTY AND HOW TO USE THE OVERLAY. SECONDED BY COMMISSIONER IRBY. MOTION APPROVED 6-0.

B. <u>DVR03-0032 FIRST BAPTIST CHURCH CHANDLER</u>

ASHLEY BAILEY, PLANNER I, stated that this is a request to rezone approximately 35 acres from agricultural and industrial to Planned Area Development with an approval for Preliminary Development Plan for Phase I for the development of a church campus. The property is located at the northeast corner of Arizona Avenue and Appleby Road. Phase I is proposed to have an approximate 20,000 sq. ft. building to include worship/ religious facilities, religious education, fellowship church offices, and future indoor and outdoor recreational facilities as part of this Church campus. Ms. Ashley went on to say that during Study Session there were a few stipulations that were requested that Staff will read into the record. Stipulation No. 11 is "Banner signs are prohibited"; Stipulation No. 12 is "The undeveloped portion of the property shall be maintained in a weed-free manner."; Stipulation No. 13, " A traffic study shall be submitted and approved by the Public Works Director at the time of subsequent Preliminary Development Plan submittal."; Stipulation No. 14, "Staff shall review the intensity of lighting on the LED change panel sign in comparison to the Hamilton High School illumination standards before Certificate of Occupancy is issued."; and Stipulation No. 15, "The church's secondary driveway be reconfigured in a manner substantially similar to their attached draft sketch pending final confirmation of site details."

ED BULL, 702 E. OSBORN, representing First Baptist Church Chandler stated that the church has been in Chandler for approximately 90 years. They own the property at the northeast corner of Arizona Avenue and Appleby. They've spent many years planning, hoping, fundraising, and praying in order to bring their plans to fruition. The church that is being proposed is a campus where PAD is being requested on the entire site and PDP on only Phase I. A church is a good use and a good community base land use on the right side. Mr. Bull said that they have worked very closely with Staff on this application, including this evening. There are now 15 recommended stipulations, which are acceptable to the Church. He went on to say that they request Commission recommendation for approval in accordance with the 15 stipulations.

COMMISSIONER SCHMIDT commented that she had questioned what type of water source would be used to water the landscape area. Mr. Bull stated that there is about 46% open space in Phase I. (At this time, reference was made to a plan in the Development Booklet.) With respect to the type of water being used, the Church needs to install a gray water line that will be part of the infrastructure. He said it was his understanding that there is not as yet treated, effluent water to put into the waterline, but in time there will be some day. Phase I will be landscaped with low water use plants. In later phases with the ballfield the water use would go up, and he understands that that will be effluent or perhaps surface water sources.

COMMISSIONER SCHMIDT questioned the traffic impact of the completely build out facility. She understands that there is an additional stipulation that a traffic study be conducted at the time of PDP. She asked what the traffic study would address.

In response, Mr. Kurtz stated that traffic studies address things like impacts, what's the actual impact volume-wise of a particular development on our street system. It then goes to the next level, after the impacts have been identified, to identify any construction improvement measures that would need to be made in order to accommodate that impact. For example, based on the volume is a decel lane required; based on the volume is intersection widening required. Its very customary things that you look at, what's the impact, and what do you need to do to accommodate that impact would be the results of the study.

MS. SCHMIDT stated we would look at the impact of the traffic in the area, on the neighborhood, and the affects it may have on other existing uses. **Mr. Kurtz** commented that we would look at the area from a build-out area, volume impact of what is anticipated from the land uses.

MS. SCHMIDT asked Mr. Bull how much water the water feature would use. Mr. Bull replied that he did not know due to the fact that it hasn't been finally designed. It's something that is often encouraged by Staff. **CHAIRMAN RYAN** stated that the City of Chandler has different ordinances in effect if potable water is being used. The fountain has to be designed in such a way to minimize evaporation. Its controlled by the City. **MS. SCHMIDT** asked Mr. Bull if reclaimed water would be used. Mr. Bull responded that it would be potable water.

COMMISSIONER IRBY asked if the driveway situation had been resolved. Mr. Bull stated that it has been resolved. He went on to say it is a work in progress.

COMMISSIONER IRBY asked why the address numbers are plywood instead of metal. Mr. Bull stated that it is not plywood, but instead exterior grade Medix, which is a treated wood by-product typically used in the signage industry and a very durable product.

With regard to the traffic study, **COMMISSIONER HEUMANN** commented that this is a large parcel with a lot of ball fields. He felt this isn't just a Sunday morning activity, but activity all week long, which could result in a few hundred people at one time. He stated he wanted Traffic to understand that should be taken into consideration. In addition, he wanted to make sure that there is a letter in the file prior to this case going to Council that states the Church is fully aware of the airport, the conditions of the airport, no objection to the airport at this time or in the future in terms of noise, or any kind of function of the airport. **Mr. Bull** stated that he did verify with Pastor Smith that he is authorized to write the letter, sign the letter, and submit the letter to the City. He said that he (Mr. Bull) is now authorized to stipulate that the letter be included in the public record. They are fine with that. Further, if as a backup they need to provide some documentation between now and City Council that Pastor Smith was authorized to write and submit that letter, they can provide that.

COMMISSIONER SCHMIDT commented that the staff memorandum contains the same language as the staff memorandum (for the Airpark Area Plan Amendment) did with respect to the Airport Commission's finding that the development constitutes potential conflict with planned airport uses. She went on to say that the letter from Pastor Smith addresses the fact that the Church knows that the development is in conflict with the Airport Commission's findings, recognize it, and its not a concern to them. She said that the letter would mitigate some of the concerns.

MS. SCHMIDT commended the project in that it's a great development with a park-like setting.

MR. BULL stated that neither Staff nor they took the Airport Commission's comments lightly or in any way ignored them. They feel they are not at all incompatible with the airport. He stated that they are over one mile away, outside the noise contours, and that there's 135-ft power poles between the development and the airport.

DARIN SENDER, SENDER ASSOCIATES, representing Dan and Dr. Leslie Wheeler stated that they commend the Church for working very hard with them to resolve the driveway issue. They welcome the new neighbor and commend their efforts.

MOTION BY COMMISSIONER HEUMANN, SECONDED BY COMMISSIONER SCHMIDT TO APPROVE DVR03-0032 FIRST BAPTIST CHURCH CHANDLER WITH THE ADDITIONAL 16 STIPULATIONS AS READ INTO THE RECORD. MOTION WAS APPROVED 6-0.

7. DIRECTOR'S REPORT – no report.

8. CHAIRMAN'S ANNOUNCEMENT

   The next regular meeting was set for March 3, 2004, at 5:30 P.M. in the Council Chambers.

9. ADJOURNMENT

   The meeting was adjourned at 6:28 P.M.

_____
Phil Ryan, Chairman

_____
Douglas A. Ballard, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, March 3, 2004, held in the City Council Chambers, 22 S. Delaware Street.

1. Chairman Ryan called the meeting to order at 5:34 P.M.
2. Pledge of Allegiance lead by Commissioner Polvani.
3. The following Commissioners answered Roll Call:

   Chairman Phil Ryan
   Vice Chairman Michael Flanders
   Commissioner Rick Heumann
   Commissioner Shiela Schmidt
   Commissioner Jeanette Polvani

   Absent & Excused: Commissioners Brett Anderson and Mark Irby

   Also Present:

   Mr. Jeff Kurtz, Current Planning Manager
   Ms. Ashley Bailey, Planner
   Mr. Kevin Mayo, Planner
   Ms. Jodie M. Novak, Planner
   Ms. Judy Skousen, Assistant City Attorney
   Ms. Linda Porter, Secretary

4. APPROVAL OF MINUTES

   MOVED BY COMMISSIONER FLANDERS, seconded by COMMISSIONER HEUMANN to approve the minutes of the February 18, 2004 meeting. MOTION WAS APPROVED (5-0).

5. CONSENT AGENDA

   CHAIRMAN RYAN stated that all the items, with the exception of Item F - UP04-0004 Heaven's Choice Childcare, are on the Consent Agenda. In addition, there are some additional stipulations.

   JEFF KURTZ, CURRENT PLANNING MANAGER stated there were additional stipulations to Item A – **DVR03-0030/PPT03-0013/PPT03-0014 Dobson Crossing**:

   > **19. "*The proposed PAD Conceptual Commercial parcel is approved permitting uses under the Community Commercial (C-2) District, including gasoline sales.*"**
   >
   > **20. "*The developer shall be required to install the pedestrian link located along the south property line including landscaping, sidewalks, and lighting. Details to be worked out with Staff.*"**

21. "*At the determination of the Traffic Engineer, the developer shall install traffic calming measures along Iowa Street, Azalea Drive, Nebraska Street, and Aster Drive.*"

22. *"The developer shall be required to notify prospective homebuyers within the Dream Series lots of the potential traffic impacts associated with the high school."*

Item E: **UP03-0054 New Horizon Youth Home**, a re-wording of a stipulation:

2. *"Use Permit shall not be transferable to another property or owner."*

A. <u>DVR03-0030/PPT03-0013/PPT03-0014 DOBSON CROSSING</u>

APPROVED, a request for an amendment to the Section 16 Area Plan, re-designating an approximate 158.4-acre parcel located at the southwest corner of Arizona Avenue and Queen Creek Road, from Commercial to Commercial, Office, Medium-Density Single-Family, and Low-Density Single-Family. In addition, request rezoning from Agricultural District (AG-1) and Regional Commercial District (C-3) to Planned Area Development (PAD) for a commercial shopping center, a commercial office development, a 4.6 dwelling units per acre medium-density single-family subdivision, and a 3.2 dwelling units per acre single-family subdivision, along with Preliminary Development Plan (PDP) and Preliminary Plat approval for subdivision layout and housing product for the residential subdivisions.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "DOBSON CROSSING" kept on file in the City of Chandler Planning Services Division, in File No. DVR03-0030, except as modified by condition herein.
2. Right-of-way dedications to achieve full half widths for Arizona Avenue, Queen Creek Road, and all other streets including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.
3. Undergrounding of all overhead electric (less than 69kv), communication, and television lines and any open irrigation ditches or canals located on the site or within adjacent right-of-ways and/or easements. Any 69kv or larger electric lines that must stay overhead shall be located in accordance with the City's adopted design and engineering standards. The aboveground utility poles, boxes, cabinets, or similar appurtenances shall be located outside of the ultimate right-of-way and within a specific utility easement.
4. Completion of the construction of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details, and design manuals.

5. The developer shall be required to install landscaping in the arterial street median adjoining this project. In the event that the landscaping already exists within such median(s), the developer shall be required to upgrade such landscaping to meet current City standards.
6. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.
7. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls.
8. The covenants, conditions and restrictions (CC & R's) to be filed and recorded with the subdivision shall mandate the installation of front yard landscaping within 180 days from the date of occupancy with the homeowners' association responsible for monitoring and enforcement of this requirement.
9. Sign packages, including free-standing signs as well as wall-mounted signs, shall be designed in coordination with landscape plans, planting materials, storm water retention requirements, and utility pedestals, so as not to create problems with sign visibility or prompt the removal of required landscape materials.
10. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or a homeowners' association.
11. The source of water that shall be used on the open space, common areas, and landscape tracts shall be reclaimed water (effluent). If reclaimed water is not available at the time of construction, and the total landscapable area is 10 acres in size or greater, these areas will be irrigated and supplied with water, other than surface water from any irrigation district, by the owner of the development through sources consistent with the laws of the State of Arizona and the rules and regulations of the Arizona Department of Water Resources. If the total landscapable area is less than 10 acres in size, the open space common areas, and landscape tracts may be irrigated and supplied with water by or through the use of potable water provided by the City of Chandler or any other source that will not otherwise interfere with, impede, diminish, reduce, limit or otherwise adversely affect the City of Chandler's municipal water service area nor shall such provision of water cause a credit or charge to be made against the City of Chandler's gallons per capita per day (GPCD) allotment or allocation. However, when the City of Chandler has effluent of sufficient quantity and quality which meets the requirements of the Arizona Department of Environmental Quality for the purposes intended available to the property to support the open space, common areas, and landscape tracts available, Chandler effluent shall be used to irrigate these areas.

    In the event the owner sells or otherwise transfers the development to another person or entity, the owner will also sell or transfer to the buyer of the development, at the buyer’s option, the water rights and permits then applicable to the development. The limitation that the water for the development is to be owner-provided and the restriction provided for in the preceding sentence shall be

stated on the final plat governing the development, so as to provide notice to any future owners. The Public Report, Purchase Contracts, and Final Plats shall include a disclosure statement outlining that the Dobson Crossing development shall use treated effluent to maintain open space, common areas, and landscape tracts.

12. The homes shall have all copper plumbing for those lines under water pressure.
13. Homebuilder will advise all prospective homebuyers of the information on future City facilities contained in the City Facilities map found at www.chandleraz.gov/infomap, or available from the City's Communication and Public Affairs Department.
14. Corner lots shall be limited to one-story homes only.
15. Within the Avalon subdivision, two-story homes are limited to every third lot along the collector roads.
16. Within The Village subdivision, two-story homes shall be limited to a maximum of 50% along the arterials, with no more than three two-story homes grouped together.
17. The proposed PAD Conceptual Commercial parcel is limited to a maximum tenant size of less-than 150,000 square-feet.
18. The proposed PAD Conceptual Office parcel is restricted to single-story only office buildings.

Staff recommends approval of the Preliminary Plats subject to the following condition:

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.

B. <u>DVR03-0046 CHANDLER AIRPARK</u>

APPROVED, a request for action on the existing PAD (Planned Area Development) zoning to extend or remove a development timing condition, or take legislative action to cause the property to revert to its former AG-1 (Agricultural) zoning classification. The existing PAD zoning is for commercial, office, and light industry property located on approximately 49 acres at the southwest corner of Cooper and Germann Roads.

C. <u>DVR03-0051 AIRPORT ZONING (CITY INITIATIVE)</u>

APPROVED, a request for rezoning from AG-1 (Agricultural) to AP-1 (Airport) for airport uses on land comprising the Chandler Municipal Airport as owned by the City of Chandler. The property is approximately 46 acres and located on the northeast corner of Airport Boulevard and Ryan Road.

D. <u>UP03-0053 HEALING HANDS NURSING BEHAVIORAL HEALTH</u>

APPROVED, a request for Use Permit approval to operate a supplemental staffing agency located at 420 W. Chandler Blvd.

1. Any expansion or modification beyond the approved Site Plan shall void the Use Permit and require a new Use Permit application.
2. The Use Permit shall be granted for a period of one (1) year, at which time re-application shall be required.
3. The number of employees occupying the residential conversion shall not exceed four (4).

E. UP03-0054 NEW HORIZON YOUTH HOME

APPROVED, a request for Use Permit extension approval to operate a group home within a residence located at 760 E. Stottler Place.

1. The Group Home shall have no more than seven (7) residents at any time.
2. Should the applicant sell the property, this Use Permit to operate a Group Home shall be null and void.
3. The applicant shall not permit known sexual offenders to become residents in this Group Home.
4. The Use Permit shall be extended for a period of three (3) years, at which time re-application shall be required. The three-year time period shall begin from the date of City Council approval.

G. UP04-0006 FAMOUS DAVE'S RESTAURANT

APPROVED, a request for Use Permit approval to sell liquor (Series 12 Restaurant License) at a restaurant at 3250 W. Frye Road.

1. The Use Permit is for a Series 12 license only, and any change in type of license shall require reapplication and new Use Permit approval.

2. Expansion beyond the approved Floor Plan shall void the Use Permit and require new Use Permit application and approval.

3. The Use Permit is non-transferable to any other store location.

MOVED BY COMMISSIONER HEUMANN, seconded by **COMMISSIONER SCHMIDT, TO APPROVE THE CONSENT AGENDA** with the additional conditions as read by Staff. **MOTION WAS APPROVED (5-0).**

COMMISSIONER HEUMANN COMMENTED ON ITEM E, UP03-0054 NEW HORIZONS YOUTH HOME. He commended the applicant on doing a nice job. He stated that there have been no complaints from the city.

6. ACTION ITEMS

F. UP04-0004 HEAVEN'S CHOICE CHILDCARE

ASHLEY BAILEY, PLANNER I, stated that this property is located south of the southwest corner of Fairview Street and McQueen Road at 801 S. Williams Place. The house was built in approximately 1995 as part of Monterey Point II. The home is approximately 1,700 sq. ft. with a 2,700 sq. ft. backyard. The applicant is requesting to provide childcare for nine children in a single-family, two-story home. The children spend most of their time downstairs, but there are two bedrooms upstairs in case a child is sick and needs to be separated from the other children. The Zoning Code allows for consideration for up to ten children with a Use Permit for compensation. Hours of operation are generally from 6 a.m. to 6 p.m., although drop off and pick up times vary from 4:30 a.m. to 6 p.m. at night, depending on parents' schedules and also to mitigate traffic concerns. The operation has been conducted in this home for approximately one year. This application comes forward from an anonymous complaint. The applicant was not aware that they needed a Use Permit. Upon notification, the applicant applied for a Use Permit. A fire department approved third-party monitored automatic smoke detection system has been installed, which is required for the request for up to nine children. Staff has not observed anything unique about the application, and appears to be similar to other Council approved childcare operations. The applicant is requesting one employee, as the Arizona Department of Health Services criteria for nine children would be one adult to every five children. At the times that the caregiver has more than five children in the home, there will be another employee present to meet that ratio. Staff attended a neighborhood meeting, and no neighbors came forward. Staff has not received any phone calls in opposition; however, one letter was received by fax with concerns of compatibility issues such as noise and traffic. Staff has noticed a typo on Stipulation No. 3. The wording "adult care" should be changed to "childcare". Staff recommends approval.

COMMISSIONER HEUMANN asked Ms. Bailey if this home is located in an H.O.A. and if so, was the Association notified of the request. Ms. Bailey stated that the home is located within a H.O.A. The applicant indicated that she had notified the Association of the request. Ms. Bailey stated that she could get a record of that.

COMMISSIONER HEUMANN questioned if there had ever been other sites in residential areas where children were being dropped off at 4:30 a.m. Ms. Bailey stated that she did not think so, the earliest that she had seen on approved Use Permits was 5:30 or 6:00 a.m.

VICE CHAIRMAN FLANDERS asked if Staff was aware of any other type of Code violation on this property other than needing a Use Permit. Ms. Bailey stated that Staff is not aware of any violation other than the Use Permit and a State license.

COMMISSIONER HEUMANN inquired if the applicant had a State license. Ms. Bailey indicated that the applicant had applied for a license through the State, and if it hadn't already been approved, it should be approved very shortly.

THERESA HAWKINS, 801 S. WILLIAMS PLACE, stated that Commission indicated some concern about drop-off and pick-up times and how many children would be left at home per adult. She went on to say that all the children are part time, approximately two to three days out of a week. There are three children that are full time. On Mondays, Tuesdays, and Fridays, when she doesn't have a young lady there to help her, her husband is there to help. During this time there are three infants. When he leaves from home to go pick up the children (after school), he will bring home three to four children. In a day there can be anywhere from four to seven children.

COMMISSIONER HEUMANN stated that in reading the application there were several drop-off and pick-up times at various time during the day. He asked Ms. Hawkins if she has a plan as to the ages of the children. Ms. Hawkins stated that she has anywhere from four months to eight years old. She stated that she is losing 2 five-year olds and an eight-year old. At present she is moving down to infants and toddlers because of the constant drop-off, pick-up times. When asked if her husband is full time with the childcare business, Ms. Hawkins stated that her husband works night shift for Motorola, working from 5 p.m. to 5 a.m. He is available after 11 a.m. to pick the school-age children up from school. Ms. Hawkins stated that there are no infants in the morning when she is away picking up children from school. She is back before any of the infants arrive. She went on to say that she could possibly have up to nine children, and when that happens, Ms. Genevieve will be brought in. She is already working on Wednesdays and Thursdays for that reason. Ms. Hawkins said that this is a juggle, but she's been doing it since October, since May with one infant, and then in October taking on more children. She stated that they have been able to do this program like clockwork. There have been no problems, and if there is a scheduling conflict, Ms. Genevieve is called in.

COMMISSIONER HEUMANN asked if Ms. Hawkins knew who might have been the neighbor that had written a complaint letter in which they stated there were 17 cars coming and going. Ms. Hawkins stated that she had lived at this residence for four years and has not experienced any problems with any of her neighbors. Ms. Hawkins stated that, in fact, she's taken in neighbor children that have been left stranded outside because of not being able to get into their home due to a parent being gone. She stated that she has been there for her neighbors and did not know who could have sent in the complaint. Commissioner Heumann asked if Ms. Hawkins own children are a part of the daycare. Ms. Hawkins stated that she has a 2-year old and a 5-year old who attends pre-school in the afternoon.

CHAIRMAN RYAN asked if the applicant established the maximum number of nine children, or if Staff established the number. Ms. Hawkins stated that she had indicated in her letter to Staff that she had nine children. Chairman Ryan inquired if the children are ever allowed out in the front of the home; Ms. Hawkins stated that they are never allowed out in the front of the house. With regard to the complaint, she stated that the only

exception would be possibly the siblings of a child that are waiting in the car while a parent is picking up their toddler. She also said that there are neighborhood kids that come over to see her 13-year old son after school. Chairman Ryan asked if Ms. Hawkins knew the anonymous person, and she answered that she did not. She went on to say that she had held a neighborhood meeting, was ready and available for questions, and no one had showed up. She also stated that she had spoken to a few of her neighbors and they did not have any problems with the childcare.

CHAIRMAN RYAN asked the applicant if the childcare is five days per week. Ms. Hawkins stated that it is from Monday through Friday, five days per week and from 6 a.m. to 6 p.m. With respect to the 4:30 time that concerned the Commission, she has a parent that has to drop off a child at that time due to his work schedule and because other daycare facilities will not take a child that early. Other than that, the children normally arrive at 6 a.m. Chairman Ryan stated that this item was pulled off the Consent agenda because of a concern that when there are nine children, it appears more like a business than of a residential part of the neighborhood. He went on to say that the Commission wanted to speak to her to get to know her and to make sure that she's a "hand on" individual. The Commission wanted to make sure that it doesn't develop into a business where she is not there and someone else is running the business.

VICE CHAIRMAN FLANDERS asked if she had ever had nine children in the house. Ms. Hawkins stated that the only time this will happen is when the children are on summer breaks. She went on to say that when nine children are there she has her husband and Ms. Genevieve there with her. Ms. Hawkins said that she asks the parents in advance the times that she'll have the children so that she can make arrangements for coverage.

CHAIRMAN RYAN asked Staff if the Commission had ever given a Use Permit for this many children in a daycare in a residence. Mr. Kurtz stated that we have, although there haven't been many. One in particular was in The Provinces, which was for 10 for compensation. On a case-by-case basis, Staff evaluates what they believe is appropriate from a compatibility standpoint, the staffing, and the structured drop off/pick up to gauge compatibility.

CHAIRMAN RYAN stated that, if Council approves this case, he would like letters sent out to the same people that had gotten notices, describing that this is under a one-year Use Permit. He instructed Staff to include a contact name from the City if a problem arises with the Use, as the neighbors have that right. Chairman Ryan commented that he believes that Theresa runs a tight ship and believes that she will do a good job. He went on to say that he believes that we should do this with all of these types Use Permits.

MR. KURTZ stated that this is an excellent idea and that Staff would look forward doing this, as it's a good management tool.

MOTION BY VICE CHAIRMAN FLANDERS, SECONDED BY COMMISSIONER HEUMANN TO APPROVE UP04-0004 HEAVEN'S CHOICE CHILDCARE WITH THE STIPULATIONS AS LISTED AND A STIPULATION TO NUMBER 3. MS. BAILEY READ INTO THE RECORD STIPULATION NUMBER 3:

> **3. *"Compliance with the City of Chandler Zoning Code provisions with regard to the operation of child care homes."***

THE MOTION WAS APPROVED (5-0).

COMMISSIONER HEUMANN commented that the idea of re-notification was a very good concept to do, not just for this type Use Permit, but also for any types of Use Permits that fall within a neighborhood. He asked Staff if the re-notification should be stipulated; Staff indicated that this would be handled administratively.

In closing, Commissioner Heumann urged everyone to get out and vote.

7. DIRECTOR'S REPORT – no report.

8. CHAIRMAN'S ANNOUNCEMENT

The next regular meeting was set for March 17, 2004, at 5:30 P.M. in the Council Chambers.

9. ADJOURNMENT

The meeting was adjourned at 6:03 P.M.

_____
Phil Ryan, Chairman

_____
Douglas A. Ballard, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, March 17, 2004, held in the City Council Chambers, 22 S. Delaware Street.

1. Chairman Ryan called the meeting to order at 5:35 P.M.
2. Pledge of Allegiance lead by Commissioner Anderson.
3. The following Commissioners answered Roll Call:

   Chairman Phil Ryan
   Vice Chairman Michael Flanders
   Commissioner Shiela Schmidt
   Commissioner Brett Anderson
   Commissioner Mark Irby

   Absent & Excused: Commissioners Jeanette Polvani and Rick Heumann

   Also Present:

   Mr. Doug Ballard, Planning and Development Director
   Mr. Glen Van Nimwegen, Asst. Planning and Development Director
   Mr. Jeff Kurtz, Current Planning Manager
   Ms. Ashley Bailey, Planner
   Mr. Kevin Mayo, Planner
   Mr. Thomas Ritz, Planner
   Ms. Jodie M. Novak, Planner
   Mr. Glenn Brockman, Assistant City Attorney
   Ms. Linda Porter, Secretary

4. APPROVAL OF MINUTES

   MOVED BY COMMISSIONER IRBY, seconded by VICE CHAIRMAN FLANDERS to approve the minutes of the March 3, 2004 meeting. MOTION WAS APPROVED (5-0).

5. CONSENT AGENDA

   CHAIRMAN RYAN stated that all the items, with the exception of Item E – **UP03-0057 ARIZONA BASEBALL ACADEMY**, are on the Consent Agenda. In addition, there are some additional stipulations.

   JEFF KURTZ, CURRENT PLANNING MANAGER stated there were additional stipulations to Item B – **DVR03-0040/PPT04-0001 BELA FLOR AT RIGGS ROAD**:

   16. "The maximum wall height shall be 8 feet, except for the transitions from the entry towers."

Item C – **DVR03-0043 OCOTILLO ANIMAL CLINIC.** Staff proposed a re-write on Condition No. 9, which reads:

> **9.** ***"Applicant shall enhance the east façade to include articulation of rainspouts, massing of two end tower elements to extend beyond the eastern building footprint, and trellis features above doorways along the eastern façade."***
>
> **13.** ***"The southernmost driveway shall be limited to right-in/right-out access at the time a raised median along Arizona Avenue is completed."***
>
> **14.** ***"Applicant shall work with Staff to modify the location of the driveway to soften the turning angle at the southwest entrance off the main drive."***

Item F – UP03-0058 MONTESSORI DAY SCHOOL: modification to Stipulation No. 1, to limit the time period to a maximum of three years and the Use Permit would be non-renewable.

Mr. Kurtz stated that the applicants were in agreement with all the stipulations.

A. <u>DVR03-0036 SAN TAN MIXED USE</u>

REQUEST CONTINUANCE TO THE APRIL 7, 2004 PLANNING AND ZONING COMMISSION MEETING, a request for rezoning from Planned Area Development (PAD) Mixed Use to PAD Mixed Use with a Mid-Rise Overlay on approximately 9.2-acres of an approximate 18.2-acre site located at the SWC of Ray Road and the Loop 101 (Price Freeway). In addition, request Preliminary Development Plan (PDP) approval for a Commercial Office and Retail development.

B. <u>DVR03-0040 / PPT04-0001 BELA FLOR AT RIGGS ROAD</u>

APPROVED, a request for initial City of Chandler zoning of Planned Area Development (PAD) along with Preliminary Development Plan approval for the subdivision layout and custom home housing product, and Preliminary Plat approval for a 30 lot single-family residential subdivision on approximately 20 acres. The average lot size is approximately 21,000 square feet. The property is located at the northeast corner of Riggs Road and Mountain Boulevard east of Gilbert Road.

1. Right-of-way dedications to achieve full half widths for Riggs Road, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.
2. Undergrounding, if applicable, of all overhead electric (under 69KV), communications and television lines and any open irrigation ditches or canals

located on the site or within adjacent right-of-ways and/or easements in accordance with City adopted design and engineering standards.

3. Future median openings shall be located and designed in compliance with City adopted design standards (Technical Design Manual #4).
4. Completion of the construction, where applicable, of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details, and design manuals. The developer shall be required to install landscaping in the arterial street median adjoining this project to meet current City standards. In the event that the landscaping already exists within such median(s), the developer shall be required to upgrade such landscaping to meet current City standards.
5. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development, or take legislative action to cause the property to revert to its former zoning classification.
6. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Bela Flor" kept on file in the City of Chandler Current Planning Division, in file no. DVR03-0040, except as modified by condition herein.
7. The covenants, conditions and restrictions (CC & R's) to be filed and recorded with the subdivision shall mandate the installation of front yard landscaping within 180 days from the date of occupancy with the homeowners' association responsible for monitoring and enforcement of this requirement.
8. The landscaping in all open spaces and rights-of-way as well as all perimeter fences and view walls, shall be maintained by the adjacent property owner or homeowners' association.
9. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls, and by the Public Works Director for arterial street median landscaping.
10. The homes shall have all copper plumbing lines for those lines under pressure.
11. The source of water that shall be used on the open space, common areas, and landscape tracts shall be reclaimed water (effluent). If reclaimed water is not available at the time of construction, and the total landscapable area is 10 acres in size or greater, these areas will be irrigated and supplied with water, other than surface water from any irrigation district, by the owner of the development through sources consistent with the laws of the State if Arizona and the rules and regulations of the Arizona Department of Water Resources. If the total landscapable area is less than 10 acres in size, the open space common areas, and landscape tracts may be irrigated and supplied with water by or through the use of potable water provided by the City of Chandler or any other source that will not otherwise interfere with, impede, diminish, reduce, limit or otherwise adversely affect the City of Chandler's municipal water service area nor shall such provision of water cause a credit or charge to be made against the City of Chandler's gallons per capita per day (GPCD) allotment or allocation. However, when the City of Chandler has effluent of sufficient quantity and quality, which meets the

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

12. The "Public Subdivision Report", "Purchase Contracts", and CC&R's shall include a disclosure statement outlining that the site is adjacent to agricultural properties that have horse and animal privileges and shall state that such uses are legal and should be expected to continue indefinitely.
13. No more than two adjacent homes along Riggs Road shall have identical roof ridgelines.
14. Homebuilder will advise all prospective homebuyers of the information on future City facilities contained in the City Facilities map found at www.chandleraz.gov/infomap, or available from the City's Communication and Public Affairs Department. The homebuilder shall post a copy of the City Facilities map in the sales office showing the location of future and existing City facilities.
15. Prior to the time of making any lot reservations or subsequent sales agreements, the home builder/lot developer shall provide a written disclosure statement, for the signature of each buyer, acknowledging that the subdivision is located adjacent to or nearby an aircraft engine testing facility and an airplane aerobatic training area that may cause adverse noise, odors, and other externalities. The "Public Subdivision Report", "Purchase Contracts", and CC&R's shall include a disclosure statement outlining that the site is adjacent to or nearby an aircraft engine testing facility and an airplane aerobatic training area, and the disclosure shall state that such uses are legal and should be expected to continue indefinitely. The disclosure shall be presented to prospective homebuyers on a separate, single form for them to read and sign prior to or simultaneously with executing a purchase agreement. This responsibility for notice rests with the homebuilder/lot developer and shall not be construed as an absolute guarantee by the City of Chandler for receiving such notice.
16. The maximum wall height shall be 8 feet, except for the transitions from the entry towers.

Staff recommends approval of the Preliminary Plat subject to:

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.

C. <u>DVR03-0043 OCOTILLO ANIMAL CLINIC</u>

APPROVED, a request for initial City of Chandler zoning of Planned Area Development (PAD) along with Preliminary Development Plan approval for an animal clinic and indoor boarding facility on approximately 2.1 acres. The property is located north of the northeast corner of Arizona Avenue and Appleby Road.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Ocotillo Animal Clinic" kept on file in the City of Chandler Planning Services Division, in File No. DVR03-0043, except as modified by condition herein.
2. Right-of-way dedications to achieve full half width, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan. This includes but is not limited to Arizona Avenue. A future quarter mile collector street shall be provided at the northern boundary of the site, subject to approval by the Public Works Director based on future development coordination with adjacent properties.
3. Completion of the construction of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details, and design manuals.
4. The developer shall be required to install landscaping in the arterial street median adjoining this project. In the event that the landscaping already exists within such median(s), the developer shall be required to upgrade such landscaping to meet current City standards.
5. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.
6. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls.
7. Sign packages, including free-standing signs as well as wall-mounted signs, shall be designed in coordination with landscape plans, planting materials, storm water retention requirements, and utility pedestals, so as not to create problems with sign visibility or prompt the removal of required landscape materials.
8. All signage shall be designed to compliment the building architecture, materials, and colors with the final placement and overall size of the conceptual freestanding monument sign consistent with the level of commercial development.
9. Applicant shall enhance the east façade to include articulation of rainspouts, massing of two end tower elements to extend beyond the eastern building footprint, and trellis features above doorways along the eastern façade.
10. Undergrounding of all overhead electric (under 69KV), communications and television lines and any open irrigation ditches or canals located on the site or within adjacent right-of-ways and/or easements in accordance with City adopted design and engineering standards.

11. The source of water that shall be used on the open space, common areas, and landscape tracts shall be reclaimed water (effluent). If reclaimed water is not available at the time of construction, and the total landscapable area is 10 acres in size or greater, these areas will be irrigated and supplied with water, other than surface water from any irrigation district, by the owner of the development through sources consistent with the laws of the State of Arizona and the rules and regulations of the Arizona Department of Water Resources. If the total landscapable area is less than 10 acres in size, the open space common areas, and landscape tracts may be irrigated and supplied with water by or through the use of potable water provided by the City of Chandler or any other source that will not otherwise interfere with, impede, diminish, reduce, limit or otherwise adversely affect the City of Chandler's municipal water service area nor shall such provision of water cause a credit or charge to be made against the City of Chandler's gallons per capita per day (GPCD) allotment or allocation. However, when the City of Chandler has effluent of sufficient quantity and quality which meets the requirements of the Arizona Department of Environmental Quality for the purposes intended available to the property to support the open space, common areas, and landscape tracts available, Chandler effluent shall be used to irrigate these areas. In the event the owner sells or otherwise transfers the development to another person or entity, the owner will also sell or transfer to the buyer of the development, at the buyer's option, the water rights and permits then applicable to the development. The limitation that the water for the development is to be owner-provided and the restriction provided for in the preceding sentence shall be stated on the final plat governing the development, so as to provide notice to any future owners. The Public Report, Purchase Contracts, and Final Plats shall include a disclosure statement outlining that the First Baptist Church Chandler development shall use treated effluent to maintain open space, common areas, and landscape tracts.
12. The following stipulations shall be the responsibilities of the developer and shall not be construed as a guarantee of disclosure by the City of Chandler:
    a) The developer shall provide the City with an avigational easement over the subject property in accordance with Section 3004 of the City of Chandler Zoning Code.
    b) All buildings shall be designed and built with noise attenuation construction to achieve an interior noise level of 45 decibels for a single event from an aircraft. A registered engineer shall certify that the project is in conformance with this condition.
    c) The Final Plat shall contain the following statement on the cover sheet in a prominent location and in large text:

        "This property is located within the Chandler Municipal Airport Impact Overlay District and is subject to aircraft noise and overflight activity, and is encumbered by an avigational easement to the City of Chandler."
13. The southernmost driveway shall be limited to right-in/right-out access at the time a raised median along Arizona Avenue is completed.

14. Applicant shall work with Staff to modify the location of the driveway to soften the turning angle at the southwest entrance off the main drive.

D. UP04-0005 TEAKWOODS TAVERN & GRILL

APPROVED, a request for Use Permit approval for an extension of premises to sell liquor (Series #12) for on-premise consumption only within a restaurant. The property is located within the Laguna Village shopping center at 5965 W. Ray Road, Suite #19, southeast corner of Ray Road and Kyrene Road.

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 license shall require re-application and new Use Permit approval.
3. The Use Permit is non-transferable to other store locations.
4. Any substantial change in the floor plan to include such items as, but not limited to, additional bar serving area or the addition of entertainment related uses shall require reapplication and approval of the Use Permit.

F. UP03-0058 MONTESSORI DAY SCHOOL

APPROVED, a request for Use Permit extension to allow a modular building in a Single Family Residential District (SF-8.5) zoning. The property is located at 1700 W. Warner Rd.

1. This Use Permit to continue operating a modular building as an office within an existing Montessori School site shall be effective for a period of five (5) years at which time the Use Permit will be non-renewable.

CHAIRMAN RYAN stated for the record that his vote on the Consent Agenda would not apply to Item A: DVR03-0036 San Tan Mixed Use or on Item C: DVR03-0043 Ocotillo Animal Clinic as he had been a consultant on both projects.

MOVED BY VICE CHAIRMAN FLANDERS, seconded by **COMMISSIONER IRBY, TO APPROVE THE CONSENT AGENDA** with the additional conditions as read by Staff. **MOTION WAS APPROVED (5-0).**

6. ACTION ITEM

E. UP03-0057 ARIZONA BASEBALL ACADEMY

MS. JODIE NOVAK, PLANNER, stated that the application is for an indoor baseball and softball training facility to be located within property that has I-1 Planned Industrial District zoning. The applicant is requesting this indoor baseball and softball training facility within a partially built-out corporate park called Fairview Corporate Park located on the west side of 56th

Street south of the new Loop 202 Santan Freeway, which is approximately ¾ mile south of Chandler Boulevard. They are leasing two suites, which total about 11,000 square feet to include batting cages, hitting cages, private instruction, and public use of pitching machines and circuit training areas for children and adults that play baseball/softball. The area is zoned for industrial. There are already a variety of uses within the existing building that include warehousing, distribution, and light manufacturing, some office, and some accessory retail. In accordance with the General Plan Land Use Element and the I-1 zoning district, commercial/recreational type facilities need to be located within commercial zoned areas. Light industrial zoned districts are zoned and intended for light operations and light manufacturing type uses. Some of those uses may have accessory retail and office as a support use to those employment areas. Commercial/recreational facilities, such as the indoor baseball and softball training facility, skating rinks, bowling alley facilities, dance-type schools, gymnasiums, other types of school uses such as a charter schools, and churches, the Zoning Code does allow those within a commercial areas and at any other zoning district by Use Permit. Staff philosophically has evaluated all those type of uses in the past that have come forward with a Use Permit. Staff is of the opinion to recommend denial in order to ensure that Staff is keeping the commercial/recreational facilities in commercially zoned areas and allowing the industrial areas to be supported specifically by industrial based type uses. Some of those Use Permits that Staff have recommended denial of, and have gone to City Council and were granted approval and therefore may have had extensions a few years after that. Staff feels that the proposed baseball/training facility at this location is not in conformance with the Employment category, the General Plan, or typically with what would be located in industrial areas. Industrial areas have the potential to create noise, heavier traffic, hazardous chemicals used or stored, or other odors. Staff feels it is not in the best interest to have a recreational facility or assemblage of large amounts of people that may be operating at hours that may conflict or later than what is already occurring in the industrial areas. The City also wants to reserve the industrial areas for industrial space. Staff feels that commercial/recreational facilities take away opportunities for employment type uses in the industrial areas by leasing space within those corporate parks. The City has in the past, in certain industrial parks, had zoning overlays, PAD (Planned Area Development) applied to certain parcels in order to help accommodate or facilitate uses such as a gymnasium, and/or church type of use. Historically, recreational type uses such as this have been located in a commercial zoning area. Some of the facilities are located in commercial/retail shopping plazas. The City also has other facilities have their own sites that are freestanding centers. Staff is of the opinion that, although it is a good use for the community, this location is not the best and appropriate location for a recreational/commercial use in the I-1 zoning district.

CHAIRMAN RYAN directed Staff to prepare some standard conditions in the chance that Commission may approve this case and send it forward to Council.

VICE CHAIRMAN FLANDERS inquired what the approximate age of the facility, as it appeared to be fairly new. Ms. Novak stated the center was built within the past year. The Improvement Plans were dated in 1999; however, the first two buildings were built fairly recently. She went on to say that there are still two additional buildings.

VICE CHAIRMAN FLANDERS asked what type of tenants were presently occupying the facility and if there were any hazardous materials being used. Ms. Novak stated the building where Arizona Baseball Academy wants to occupy has about five other tenants, and was not sure if any other those tenants had any type of hazardous materials or chemicals. Some of the companies are: Grays Engineering and Consulting (basically an engineering consultant office firm), the Arizona Wire and Tool Co. (not sure what they do), North Coast Electric Company (believes it is an office space), and possibly Arizona Home Drug and Aztec Services are located in the same building. She said that it appeared that the more active uses are in the other building, already existing on the site, such as the Water and Ice Distribution facility, a company that manufactures water purification systems and mechanisms, the Naked Juice Corporation, which appeared to be just an office, a custom cabinetry company, and the Four Seasons Sun Room Co., so they tend to be getting more clientele in and out of these offices than it appeared in terms of vehicle traffic than the other side of the property. Vice Chairman Flanders said it seemed to be more of a general public that is coming in and out as far as those tenants. He wanted to get a feel of the traffic that would be coming and going around the building. Ms. Novak commented that while waiting to post the sign at the property, she observed that the only traffic coming in appeared to be the employees coming back from a lunch hour, and not a lot of traffic constantly coming in and out; however, the one building that has all the uses is a building that has street frontage, so it was her observation that they would be leased to businesses that will generate more traffic from the public than those that are much further west and tucked away from street view.

CHAIRMAN RYAN asked Mr. Kurtz that if a tenant comes in that wants to store hazardous materials, does that tenant have to identify those materials and get them approved for storage with the City. Mr. Kurtz stated "most certainly". Chairman Ryan commented that it would be easy enough to find out if there's any hazardous materials being stored presently, and if a new tenant comes in, if there are going to be any hazardous materials. Mr. Kurtz stated that Staff could do research to find out if any of the tenants already has any hazardous materials.

CHAIRMAN RYAN went on to say that he is leaning toward allowing the user going there; however, he understood that Staff's position that industrial property has to be set-aside for industrial users. The City wouldn't want to put this user in there, which would preclude another company coming in that wants to use it possibly for hazardous material storage. That is what industrial projects are for. Chairman Ryan felt that if this case goes forward there should be a stipulation that if there were going to be any future tenants that wanted hazardous material storage near-by, then this Use Permit would immediately become invalid. Chairman Ryan stated he was just thinking out loud.

COMMISSIONER IRBY stated that if this case does become approved, he wanted a stipulation that the exterior lighting would be upgraded, although he wasn't sure what the foot candle requirements may be. He stated that he agreed with Staff that there's a lot of

space out there where this use could go; however, he really didn't want to see it go into a strip shopping center either.

JIM BARKER, 16044 S. 24TH PLACE, PHOENIX, read from a prepared statement, and in summary, stated that he and his wife have always been involved in working with children. They started working with children 25 years ago while in high school, working as day camp leaders, and from there they progressed to owners of a dance school for seven years in Illinois. Mr. Barker also coached in multiple sports, many times together with his wife. Moving to Arizona eight years ago gave them more opportunities to work with the youth. First, as Youth Group Leaders for two years with their church, as well as coaching baseball, basketball, and football. His wife is currently Director of Children's Ministry at their church, and Mr. Barker continues to work with youth as a baseball instructor and coach. Mr. Barker has an extensive background in coaching baseball and feels that this allows him the opportunity to continue to do something that he enjoys. He felt they have a calling in their lives to work with children.

Mr. Barker stated that in beginning of the search for a location for the Arizona Baseball Academy, they were drawn to Chandler for obvious reasons. It was close to their home, there's a strong interest of baseball/softball in the area, and the lack of indoor baseball facilities. Other communities have these facilities that draws Chandler youth to these areas. Mr. Barker felt that this would be an amenity to the City. He stated that Scottsdale presently has two facilities, Phoenix has two facilities, Tempe has one facility, and Gilbert is in the planning stages of a facility. He went on to say that most of these facilities are located in industrial areas and said that this is a typical location for this type of business because of the size requirements and the ceiling height needed for the equipment. The facility that he wants to locate to is ready to go and does not require any tenant improvements. It meets the City's parking ratio requirement on parking. He said that the main reason for the application for this facility is because the facility has to be at least 6,000 sq. ft. He said that the obvious choice would be in an industrial location. Mr. Barker said that an indoor batting cage facility would have a difficult time generating enough income needed to support the rent in a commercial location. He felt they would surely risk the possibility of going out of business. Mr. Barker said that they understood that the most practical and economical use for the City at the Fairview Corporate Park would be to wait for an I-1 zoned business to come in. He said that the facility where he wants to locate is vacant and has been for two years. There's also a number of public assembly type uses close in proximity, one being in the same corporate park. It's the Water and Ice store, which also sells deli sandwiches. Mr. Barker stated that they have full support from the landlord/owner as well. He stated that his business would be open from 3-9 p.m. Most of the other businesses are finished at 5:00 p.m. Mr. Barker stated that presently there's a large amount of industrial space in the City that is vacant, and it might take some time for the industrial area to rebound and find tenants. He said that if approved, they would generate revenue for the City, as well as generate the future of the boys and girls in the community for those of who would use this facility. This will be a safe environment for the family, where children will want to go with their parents, and a positive atmosphere where it will be incorporated and coached over and over again. Mr. Barker reminded everyone of the excitement that was created last year with the Chandler

National World Series, and the community was bursting with pride for their team. He said his Arizona Baseball/Softball Academy would continue to generate that excitement, as well as continue to help our youth in baseball and softball. He stated that he wants to bring this kind of excitement to the children of Chandler.

Mr. Barker went on to say that what they're asking for in the way of the Use Permit is not uncommon in the City of Chandler. There are examples of businesses that were granted the uses in areas where it didn't match up to the other businesses in the proximity and were given the opportunity. Mr. Barker and his wife thanked the Commission for their time and felt that whatever their decision was would be in the best interest of the City of Chandler.

CHAIRMAN RYAN thanked Mr. Barker for his presentation. He went on to explain that a Use Permit is looked at as temporary, anywhere from one to five years. He said Commission doesn't look at them as being extended and extended, but as an interim use until things pull together in the development or wherever it is occurring. Chairman Ryan commented that Mr. Barker had said that there was not going to be a big capital expenditure for tenant improvements, but thought that there had to be some kind of capital expenditure. He asked the applicant if his capital expenditure would be something he could pick up and take with him such as cages that are portable. Mr. Barker said that the building is completed and ready to go and expressed that he would like to have more than one year, but at the same time, realized what the City had to deal with.

VICE CHAIRMAN FLANDERS asked the applicant which city in Arizona had a facility of this kind in a commercial area, as the applicant had stated that most of these type facilities are located in industrial areas. Mr. Barker answered that there was one facility that he was aware of, which is the Arizona World of Baseball located at McClintock Drive and Elliot Road. He commented that he didn't know how the owner of that facility could afford the rent, as the facilities that the Barkers had looked at were between $12-16/sq. ft.

COMMISSIONER IRBY asked the applicant how full the building was at the present time. The applicant responded that he guessed approximately 70%.

CHAIRMAN RYAN commented that the first thing the Commission has to look at is safety, especially when there are children running in and out. They wouldn't want semi-trucks interfering in the children's travel and the applicant's place of business. The hazardous waste that could be stored near by is always a concern. Also, as Commissioner Irby had stated previously, the level of lighting in industrial is usually less than that for commercial. The auxiliary lighting from the signs on the buildings tends to light up the parking area better in commercial than industrial. Mr. Barker stated that hopefully with the landlord that is something that could be rectified. He commented that the great thing about the hours of his operation is that there are no other tenants that he knows of that will be at this location after 5 p.m., so there wouldn't be any other traffic. He stated that he would speak to the landlord to see if there could be more lighting.

Chairman Ryan stated that the lighting is a concern and the parking area need to be well lit clear to the door.

COMMISSIONER IRBY asked the applicant how he was going to control the kids. Mr. Barker stated he was hoping that there would hopefully be a membership situation where if you wanted to join, such as a gym, or the public is welcome off the street. He commented that there is no residential in the area and he assumed that the children wouldn't come out on their bikes and be there without their parents. In most cases, parents don't drop off the kids and leave them. He hoped that this would be an inter-active situation where the parents are there with the kids and working with them. Mr. Barker stated that his hours would be from 3-9 p.m. during the week, and 10-6 on Saturday. Commissioner Irby said his concern was that the children would be there with their skateboards or running around while the other businesses are open. He went on to say that was the reason why he felt this is not a compatible use. He stated that he sees other buildings that are old and desperate for tenants. He asked the applicant to explain their business in terms of how they would control the kids.

ANGIE BARKER explained to the Commission that they would set the tone and precedent of the business that they would be running. It generally won't be a business where they would initiate parents to drop off their children, unless there's a camp. If that were the case, they would have enough adults to supervise the children. She stated that they have to be open when kids are available. During school hours no children are available, and that's the reason why they have the hours they do. During spring breaks there will be different hours. She said that she and her husband would set the tone of what the business would be, and it would not be a free-for-all. There would be a lot of adult supervision because of the children there.

COMMISSIONER IRBY said that is why, if they do approve this request, he would like to see a one-year Use Permit to see how it goes. Mr. Barker said that the one commercial location in Tempe (NWC Elliot/McClintock) has a lot of tenants that are open until 9 p.m. If anything, the Barkers' would not have to contend with any other customers being there at those hours.

DAVID LONG stated that he was attending on behalf of the landlord/property owner and the managing agent. He said he was there to reiterate the points that Mr. Barker made. Mr. Barker has their full support. He demonstrated to the Commission, displaying a site plan, that there was ample parking on this site. There are pole lights and building lights as well. He said there might be lighting on the building's side, but no pole lights. He went on to say, that Staff has made a point to reserve the property for other industrial uses. He said that his space has been vacant for two years. There were two other tenants that are vacating the space, and currently seeking to sub-let the space.

VICE CHAIRMAN FLANDERS asked Mr. Long how he handles a tenant that has hazardous waste, and if there are tenants that have hazardous waste. Mr. Long stated that to his knowledge that currently there were no tenants that have hazardous waste. Vice Chairman Flanders asked Mr. Long if they do anything special with their lease

documents that require the lessee to name the materials. Mr. Long stated yes for the most part. Every industrial lease varies from time to time. There is a standard industrial lease, but each time a tenant moves in, there are separate stipulations for each tenant. He restated that to his knowledge there are no tenants with hazardous materials, and if there were, they would be aware of it. Also, it would be stated in the lease.

COMMISSIONER SCHMIDT asked Mr. Long if Dakota Craftsman Custom Cabinetry still manufactured in this center. Mr. Long said he believed so. Commissioner Schmidt asked if they would have solvents used in their manufacturing. Mr. Long said he did not know for sure. Dakota Craftsman Custom Cabinetry is located in Building A, with frontage on 56th Street, Suite 6.

CHAIRMAN RYAN stated that he's okay with the request. He stated that he believed that Dakota Cabinets do minimal cabinetry work there, but anytime you're using finishes, there can be toxic materials. He felt that this project is needed for the City. To put it in a commercial prime corner, Mr. Barker had said that it would be too costly and couldn't make it work financially, and he needed an industrial site to do this. Chairman Ryan commented that he wasn't too sure that they would want this use in a commercial setting, because of how the use would work in a commercial center. He went on to state that he would be willing to try this out for one year, but on the condition that there are no existing users or proposed users that have any flammable toxic-type materials in either one of the buildings. If there were, the use would not go forward. He said that Staff needed to do research to see if Dakota Cabinets have these type materials.

COMMISSIONER SCHMIDT commented that emotionally she would like to vote for the Use Permit. She felt it was a great use. The fact that there are these folks who are so committed and dedicated to children, she said was wonderful and she really wanted to help them find a home. Ms. Schmidt went on to say though that she is concerned about setting a precedent by going against industrial uses that are zoned as such. She stated that she is all for having industrial uses where they've been evaluated, thought about, and placed. She said that now they are starting to chip away at that, and she felt they needed to be careful how they start tinkering around with what is done with industrial uses. She went on to say that she was concerned about even giving a one-year term on this Use Permit. She said that they would be barely gearing up and then they would be back before Commission, and Commission would be looking at the same question, only then it will be even more difficult because the applicant will have been in there for one year. She said she didn't know how they could put a stipulation on something like this that says that you cannot allow any other proposed uses that belong in an industrial space that might be using chemicals, because then you would have to tell these people to pack up and move out. She said she wanted to see if they couldn't do something different for this applicant. She said she would recommend denial, and said she'd like to see if anything else could be done, such as another location. She stated that this is not an easy decision, but by agreeing to put it in there would not make it any easier a year from now.

COMMISSIONER IRBY stated that he agreed with Commissioner Schmidt. He said that everyone failed to ask the applicant how long his lease is at this location. If they stipulate a one-year Use Permit, and the applicant has a three-year lease, it almost wouldn't do him any good. Chairman Ryan said he didn't know if the applicant had established a lease as yet.

COMMISSIONER ANDERSON stated that he is for this project. He said that he had been to several facilities before and has seen how they operate in these types of locations without any problem. He asked Staff if a business has to apply with the City if there is going to be industrial toxic chemicals. Ms. Novak stated this does not go through the Planning Services Division; however, when someone is applying for a tenant improvement or a Certificate of Occupancy for building permit, the Building plan review division asks if the applicant to disclose if they are planning to have any hazardous chemicals or materials, where it's going to be located, how it will be stacked, and they have to ensure compliance with building and fire codes. The Fire Marshall also reviews the disclosure. Depending on the types of chemicals or materials, the business is then issued a hazardous materials type permit. Usually the location is posted with a hazardous materials/chemicals colored insignia on the outside of the building. Different colors indicate different levels of the type of material or chemical and it's hazard level. Staff does not have the means to track that. It doesn't necessarily go through Planning to know if a tenant that is existing or proposed would have hazardous materials or chemicals, or knowing after a Use Permit may or may not have been approved for a certain period of time, or if tenants have changed, whether they have those materials there or not.

MR. JEFF KURTZ stated that the City does know factually all the businesses in town that have hazardous occupancies, by way of MSDS sheets. Staff has knowledge of everything and can get that to the Commission. He said that Staff did not get that information for Commission prior to the meeting. Staff can provide Commission of an accounting of what is out there today in terms of anyone who has hazardous chemicals through the MSDS sheet. At the same time, this is the type of zoning district where you can allow those types of chemicals and hazardous occupancies as a matter of right.

COMMISSIONER SCHMIDT said that she would like to have this information, regardless of this case.

COMMISSIONER IRBY said that once this space is built out and a Certificate of Occupancy has been issued, and then if that tenant subsequently moves out and another tenant moves in, if that new tenant makes no changes, such as a tenant improvement that requires a permit, then the City would not know if there's any hazardous chemicals unless that new tenant comes forward and volunteers the information. Mr. Kurtz stated that the City would know, because whenever there's a change of use that happens, a new business license will trigger it, tenant occupancies will trigger it, but primarily it's always the business license. There are different levels of hazardous chemicals. Different chemicals or materials require different storage requirements. The safeguard is in place to manage whenever businesses come in, depending on what they do and what kind of

chemicals they have. Safeguards are in place to monitor that. Tax license is another way to monitor this use.

CHAIRMAN RYAN asked Mr. Kurtz that if Commission were to continue the case, then Staff could verify any existing users within these buildings or vicinity that have hazardous materials. Mr. Kurtz stated that Staff would check into this matter.
VICE CHAIRMAN FLANDERS said he was in agreement with Commissioner Anderson, as well as Chairman Ryan, Commissioners Irby and Schmidt. He said he had concerns with the lighting and wanted to make sure that the lighting levels were at the maximum. Also, he was concerned with respect to the supervision of the children. He wanted to be more reassured that when the children are dropped off by their parents, that the children are in the building and not wandering around outside. He stated he was also concerned about any hazardous materials in and around this area. Vice Chairman Flanders said that he would be in favor of a continuance until Commission sees the information that Staff will bring back.

CHAIRMAN RYAN stated that this is an important public safety issue and that the continuance is in order. Mr. Ryan directed Staff to take a look at the hazardous materials issue at this site, and also to look into the lighting at this site. Chairman Ryan stated that he could see on the site plan that there were lights on the building, but that it didn't appear that the lighting would emit much light.

MOTION BY COMMISSIONER IRBY, SECONDED BY COMMISSIONER SCHMIDT TO CONTINUE THIS CASE TO THE APRIL 7, 2004 COMMISSION MEETING. THE MOTION WAS APPROVED (5-0).

7. DIRECTOR'S REPORT – no report.

8. CHAIRMAN'S ANNOUNCEMENT

The next regular meeting was set for April 7, 2004, at 5:30 P.M. in the Council Chambers.

9. ADJOURNMENT

The meeting was adjourned at 6:30 P.M.

_____
Phil Ryan, Chairman

_____
Douglas A. Ballard, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, April 7, 2004, held in the City Council Chambers, 22 S. Delaware Street.

1. Chairman Ryan called the meeting to order at 5:40 P.M.
2. Pledge of Allegiance lead by Vice Chairman Flanders.
3. The following Commissioners answered Roll Call:

   Chairman Phil Ryan
   Vice Chairman Michael Flanders
   Commissioner Janette Polvani
   Commissioner Rick Heumann
   Commissioner Mark Irby
   Commissioner Shiela Schmidt

   Absent & Excused: Commissioner Brett Anderson

   Also Present:

   Mr. Doug Ballard, Planning and Development Director
   Mr. Glen Van Nimwegen, Asst. Planning and Development Director
   Mr. Jeff Kurtz, Current Planning Manager
   Ms. Ashley Bailey, Planner
   Mr. Kevin Mayo, Planner
   Mr. Thomas Ritz, Planner
   Ms. Jodie M. Novak, Planner
   Mr. Glenn Brockman, Assistant City Attorney
   Ms. Linda Porter, Secretary

4. APPROVAL OF MINUTES

   MOVED BY COMMISSIONER IRBY, seconded by VICE CHAIRMAN FLANDERS to approve the minutes of the March 17, 2004 meeting. MOTION WAS APPROVED (4-0), with Commissioners Heumann and Polvani abstaining.

5. CONSENT AGENDA

   To the audience**, CHAIRMAN RYAN** stated that all the items, with the exception of Item A – **DVR03-0036 SANTAN MIXED USE**; Item I – **UP04-0002 EL DIAMANTE DINING AND DANCING;** and Item J – **UP04-0007 AZ MEXICAN MARKET,** are on the Consent Agenda. In addition, there are some additional stipulations.

   MR. JEFF KURTZ, CURRENT PLANNING MANAGER stated there were additional stipulations to Item D – **PDP03-0024 SPRINGFIELD MARKETPLACE**, and asked **MS. JODIE NOVAK, PLANNER I,** to read these into the record**:**

   4. *"Landscape planter islands shall be designed in accordance with Zoning Code requirements."*
   5. *"Staff to work with applicant on the location of the main center's building signage so that the signs are located in a defined sign band area."*

6. ***"The Walgreen's mortar and pestle sign above the main entrance shall match the Riggs and McQueen Walgreen's signage."***
7. ***"Any increase in building square footage for Majors A, B, and C as depicted on the site plan, shall require a new Preliminary Development Plan approval."***
8. ***"Glass window area above the Walgreen's main entrance to be reduced in area by 25%."***
9. ***"Storefront windows shall be designed with exterior window mullions on the main center."***
10. ***"Applicant to work with Staff to screen the loading area on the east side of the Walgreen's building with a wall or landscape planter island."***

CHAIRMAN RYAN stated that an additional stipulation was needed so there would be no enlargement of square footage of Majors A, B, and C. In addition, any one of those buildings could not be combined with another one for a single use.

MS. NOVAK then read into the record the revised stipulation No. 7:

7. ***"Any increase in building square footage for Majors A, B, and C per the site plan, and any combining of square footages for Majors A, B, and C shall require new Preliminary Development Plan approval."***

Item F – **PDP04-0002 BURR RIDGE WOOD PRODUCTS**, an additional condition No. 5.

5. **"*The applicant shall work with Staff to adjust the color scheme to complement the adjacent development."***

Item H – **UP04-0010 98 SOUTH,** an additional condition No. 5:

5. ***"The Use Permit shall remain in effective for one year from the effective date of Council approval. Continuation of the Use Permit beyond the expiration date shall require reapplication to and approval by the City of Chandler."***

CONSENT AGENDA:

B. <u>PDP03-0027 LEXON RETAIL BUILDING SIGN PACKAGE</u>
APPROVED, a request for Preliminary Development Plan approval for a comprehensive sign package for a retail building located East of the northeast corner of Arizona Avenue and Ray Road.

1. Development shall be in substantial conformance with Exhibit A, Master Site Plan with signs; Exhibit B, Building Elevations; and Exhibit C, Sign criteria narrative kept on file in the City of Chandler Planning Services Division, in File No. PDP03-0027, Lexon Retail Building Sign Package.

C. <u>PDP03-0049 RESTAURANT BUILDING/LEXON DEVELOPMENT</u>
APPROVED, a request for Preliminary Development Plan approval for a restaurant with drive-through located East of the northeast corner of Arizona Avenue and Ray Road.

1. Development shall be in substantial conformance with Exhibit "A", Development Booklet, entitled, DRIVE-THRU RESTAURANT BUILDING (GREY SHELL) FOR LEXON DEVELOPER SERVICES kept on file in the City of Chandler Planning Services Division, in File No. PDP03-049, except as modified by condition herein.
2. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls.
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 pedestals, so as not to create problems with sign visibility or prompt the removal of required landscape materials.
4. All pedestrian walkways shall be A.D.A. accessible and shall not be interrupted by any obstacles preventing circulation (i.e. handicap shall have direct access to all indoor and outdoor pedestrian spaces).
5. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or a homeowners' association.

D. PDP03-0024 SPRINGFIELD MARKETPLACE

APPROVED, a request for Preliminary Development Plan (PDP) approval for a retail commercial center on approximately 12 gross acres located at the southeast corner of Riggs Road and Gilbert Road.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Springfield Marketplace", kept on file in the City of Chandler Planning Services Division, in File No. PDP03-0024, except as modified by condition herein.
2. Compliance with the original stipulations adopted by the City Council as Ordinance 2879, case PL98-0045 Springfield Lakes except as modified by condition herein.
3. Sign panels on the monument signs shall have a decorative panel with tile or stone until a tenant name is located on the sign.
4. **Landscape planter islands shall be designed in accordance with Zoning Code requirements.**
5. **Staff to work with applicant on the location of the main center's building signage so that the signs are located in a defined sign band area.**
6. **The Walgreen's mortar and pestle sign above the main entrance shall match he Riggs and McQueen Walgreen's signage.**
7. **Any increase in building square footage for Majors A, B, and C as depicted on the site plan, shall require a new Preliminary Development Plan approval.**
8. **Glass window area above the Walgreen's main entrance to be reduced in area by 25%.**
9. **Storefront windows shall be designed with exterior window mullions on the main center.**
10. **Applicant to work with Staff to screen the loading area on the east side of the Walgreen's building with a wall or landscape planter island.**

E. UP03-0057 ARIZONA BASEBALL ACADEMY

WITHDRAWN, a request for Use Permit approval to allow an indoor baseball and softball training facility within Planned Industrial District (I-1) zoning. The property is located within Fairview Corporate Park at the southwest corner of 56th Street and West Fairview Street, three-fourths of a mile south of Chandler Boulevard. (The applicant requested a withdrawal of this case. The landlord leased the tenant space to another business.)

F. PDP04-0002 BURR RIDGE WOOD PRODUCTS

APPROVED, a request for Preliminary Development Plan (PDP) approval for site layout and building architecture for an industrial building located at the southeast corner of Palomino Drive and Delaware Court, within the Westech Corporate Center.

1. Compliance with original stipulations adopted by the City Council as Ordinance No. 2858, in case PL98-0020 WESTECH PAD.
2. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Burr Ridge Wholesale Wood Products" kept on file in the City of Chandler Current Planning Division, in file number PDP04-0002, except as modified by condition herein.
3. The landscaping in all open spaces and rights-of-way shall be maintained by the adjacent property owner or property owners association.
4. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls.
5. **The applicant shall work with Staff to adjust the color scheme to complement the adjacent development.**

G. PDP04-0005 LOT 10 OFFICE/WAREHOUSE BUILDING

Request Preliminary Development Plan (PDP) approval for site layout and building architecture for an industrial building on approximately 1.2-acres located at 2390 N. Nevada Street, within the Westech Corporate Center.

1. Compliance with original stipulations adopted by the City Council as Ordinance No. 2858, in case PL98-0020 WESTECH PAD.

2. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "LOT 10 – OFFICE/WAREHOUSE BUILDING" kept on file in the City of Chandler Current Planning Division, in file number PDP04-0005, except as modified by condition herein.
3. The landscaping in all open spaces and rights-of-way shall be maintained by the adjacent property owner or property owners association.
4. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls.
5. Sign packages, including free-standing signs as well as wall-mounted signs, shall be designed in coordination with landscape plans, planting materials, storm water retention requirements, and utility pedestals, so as not to create problems with sign visibility or prompt the removal of required landscape materials.

H. UP04-0010 98 SOUTH

APPROVED, a request for Use Permit approval to sell liquor (Series 12 Restaurant License and Series 7 Beer and Wine Bar License) at a new restaurant. The property is located in downtown Chandler at 98 South San Marcos Place.

1. Expansion, modification, or relocation beyond the approved exhibits (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 and Series 7 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 store locations.

4. Any substantial change in the floor plan to include such items as, but not limited to, additional bar serving area or the addition of entertainment related uses shall require reapplication and approval of the Use Permit.
5. **The Use Permit shall remain in effective for one year from the effective date of Council approval. Continuation of the Use Permit beyond the expiration date shall require reapplication to and approval by the City of Chandler.**

MOVED BY VICE CHAIRMAN FLANDERS, seconded by **COMMISSIONER HEUMANN, TO APPROVE THE CONSENT AGENDA** with the additional conditions as read by Staff. **MOTION WAS APPROVED (6-0).**

6. ACTION ITEM

A. DVR03-0036 SAN TAN MIXED USE

Request for rezoning from Planned Area Development (PAD) Mixed Use to PAD Mixed Use with a Mid-Rise Overlay on approximately 9.2-acres of an approximate 18.2-acre site located at the SWC of Ray Road and the Loop 101 (Price Freeway). In addition, request Preliminary Development Plan (PDP) approval for a Commercial Office and Retail development.

CHAIRMAN RYAN declared a potential conflict of interest and abstained from discussion and action on this agenda item.

MR. KEVIN MAYO, PLANNER, stated that the request is for rezoning from PAD Mixed Use to PAD Mixed Use with a Mid-Rise Overlay on approximately 9.2 acres of an approximate 18.2-acre site located at the southwest corner of Ray Road and the Loop 101/Price Freeway. The request also includes a Preliminary Development Plan for the entire site for an office and retail development consisting of a 7-story, 210,000 square foot, 119-foot tall office building; a 5-level, 61.5-foot tall parking garage; 35,000 sq. ft. of single-story retail space; and 27,000 sq. ft. of single-story office space. Architectural exhibits for Retail A-1, A-2, and E were not provided; therefore those buildings will require future PDP approvals.

The site's adjacent freeway allows the consideration of the Mid-Rise Overlay, which is required for any building in height over 45' feet tall. The Mid-Rise development policy was adopted in 1985. It identified the Interstate 10 entrances as points for consideration for a Mid-Rise Overlay. This locational consideration has been expanded to also include the recently developed Santan and Price freeways. The policy directs that any building height over 45' may be considered based upon the merits of the building design and its positive impacts on the Chandler urban image. The proposed mid-rise building is situated on the site at a point adjacent to the freeway, providing maximum separation from the adjacent residential subdivision, D'Arcy Ranch. The seven story office building's height has also been mitigated by terracing floors as the building increases in height to reduce the scale and to respond to the adjacent San Tan Corporate Center on the north.

The neighborhood petition has been received from the D'Arcy Ranch neighbors. The petition indicated an overall support of the project, with the exception of the 5-level parking garage and the 7-story office building's overall heights. The neighbors are requesting a reduction in the building height to 3 stories in order to maintain consistency with the San Tan Corporate Center that is north of this project. In response to the neighborhood concerns and also to Staff concerns, the parking garage has been modified, eliminating one floor and reducing the height

approximately 11 feet. Additionally, the parking garage has been enhanced with additional architectural details, materials, and a better color separation to further integrate the garage with the balance of the development.

The development proposes a westbound, left-turn median break on Ray Road. Staff recommends this median break be deleted. The turn lane does not comply with City of Chandler detail. Staff has performed and intersection capacity analysis of the Ray Road and 101 intersection. The analysis indicated the proposed median break would be blocked during peak hour travels. There wouldn't be adequate gaps and site lines for those drivers making westbound, left turns into the driveway. Additionally, the proposed left turn lane wouldn't provide adequate vehicle storage; therefore, the vehicles will be spilling out into the ongoing westbound Ray Road traffic. A portion of this lane is within the Arizona Department of Transportation's control and has indicated that no median cut permit will be issued at this location.

Staff recommends approval of the rezoning request. The Mid Rise Overlay conforms to locational criteria of the Mid Rise Policy. The building's architecture and the site design and layout have created an appropriate solution for the increased building height. Staff also supports the PDP, finding it to represent a quality mixed-use development. The site layout is pedestrian friendly. A majority of the buildings are placed in a landscaped setting, which provides an internalized parking system. Staff recommends approval of the request.

COMMISSIONER HEUMANN asked if the parking structure height of 61.5 feet is the reduced height of the structure. Mr. Mayo stated that the parking structure was initially over 70 feet and was reduced to just slightly over 60 feet. Commissioner Heumann went on to ask how the parking structure at the subject site compared to the parking structure at the City of Chandler offices. Mr. Mayo stated that there are two parking structures in the downtown Chandler area, one being at the Chandler Police Department and the other that is adjacent to the Boyer Building. He commented that the San Tan parking structure is different, as it was designed to relate to this development. The parking structure near the City offices is all on-ramp parking; whereas, the parking structure for the proposed site is flat level parking with the up ramps also providing parking on them, but it's a slightly different design of a parking structure. Commissioner Heumann questioned if the exterior architecture was fairly similar. Mr. Mayo responded that the architecture is consistent.

VICE CHAIRMAN FLANDERS asked if the heights of the proposed parking structure and the City's parking structure were similar. Mr. Mayo stated he believed that the parking structure near the Police Department has three levels and the parking structure adjacent the Boyer Building has four levels. Vice Chairman Flanders went on to say that based on that, the proposed parking structure and the structures in downtown Chandler would be comparable in height. Commissioner Heumann said that Mr. Mayo at one time had measured the height of the structure located adjacent to the Boyer Building. Mr. Mayo said that he wasn't positive, but he believed it is less than 45 feet. He would not comment on the height of the Police Department structure, as it was not known. Commissioner Heumann asked Mr. Kurtz what the height was of the Wells Fargo parking structure. Mr. Kurtz responded that the parking structure is three level with half-level below and in the neighborhood of 35 ft. to 40 ft. in height.

MIKE WITHEY with Withey Anderson & Morrison, P.L.C., representing the applicant, addressed the Commissioners. He noted that the property is located at the SWC of Ray Road and the Loop 101 (Price Freeway) and has been zoned PAD Commercial for many years. He reiterated the request before the Commission and noted that the first Preliminary Development

Plan (PDP) was submitted to the City for a multi-use project with pads for a gas station, an office building and a hotel over by the freeway. He said that the project didn't go anyway and the owner at that time decided not to proceed with the project. In February of 2000, a portion of the site received PDP approval for an approximate 103,000 square-foot, 2-story Woman's Health Facility, but the project never came to fruition.

MR. WITHEY stated that the current proposal includes a request to rezone approximately 9.2-acres of the approximate 18.2-acre site to allow the construction of a 7-story, 119-foot high 210,000 square-foot office building and a 5-story, 61.5-foot high parking garage, with PDP approval for building architecture and site layout for the entire site encompassing the 7-story office building, 5-story parking garage, single-story office and retail buildings, with the exception of Retail A1, Retail A2 and Retail E. Architectural exhibits were not submitted for these three buildings and will require future PDP approval. He emphasized that this is a Class A office building and will raise the bar for others who follow.

Responding to a question from COMMISSIONER HEUMANN, MR. WITHEY advised that they initially proposed a five-story above-grade parking structure and said that great effort was expended to use the same materials on this structure as the others. Based on conversations with staff and others, they agreed to remove one level of the garage. He stated that the building is 61 feet in height only at the top of the element by the stairs and the garage itself is 45-feet high. In addition, they added more vertical elements, painted metal accents and stone and masonry work to the garage. He pointed out that a row of trees will be added next to the parking garage and displayed photos of different type of stone that would be used on the project as well as stone, glass and color samples. He also displayed accurate site-line photographs of what the finished project would look like from Federal and stated the opinion that the project is attractive has been designed to minimize negative impacts on surrounding neighborhoods.

In response to a question from COMMISSIONER SCHMIDT, MR. WITHEY advised that there would be a 30-foot landscaping setback on Federal. He also referred to blown up pictures of the proposed landscaping and the outdoor pedestrian/seating area. He referred to Stipulation No. 10, "The proposed median break on Ray Road shall be deleted or as otherwise approved by the Director of Public Works and ADOT," and said the plans call for a left turn into the project off of Ray Road. The same type of turn is in the Santan Corporate Center and they are proposing a mirror image for the sake of continuity. He stated the opinion that it would not carry a significant amount of traffic but it will help the retail stores and serve as the main entrance into the project. He added that the turn will also mitigate traffic turns on Federal. He requested that the Council delete the stipulation and allow the left turn but, failing that, would ask that the City of Chandler rather than the Director of Public Works and ADOT render final approval.

MR. WITHEY reiterated that the property has been zoned commercial for many years and is located near a freeway interchange and should be developed for some type of intense commercial use. He stated the opinion that the proposed office project is the best use for the property and asked the Commissioners to recommend to the Council that the proposal be approved.

COMMISSIONER POLVANI thanked Mr. Withey for bringing the material boards with him this event and said they are very helpful to her. She said she wanted to know what the actual distance is from the homes of both the edge of the parking garage and the 7-story building. Mr. Withey said he would provide that information later on in the meeting when he again addresses the Commissioners.

COMMISSIONER HEUMANN commented on the fact that the applicant built the project across the street and said it appears to be successful. He questioned why the applicant agreed to a three-story building for that project but is asking for a seven-story building for this one. MR. WITHEY responded that when they were doing the northwest corner, the owner was not sure exactly how the project would go and the freeway and mall had not yet been built. He expressed the opinion that the proposal is appropriate and warranted. He said that Class A office space is defined by their rents because the quality of the project determines the amount.

COMMISSINER HEUMANN spoke in support of office space on the corner but said that he concern is the height of the project. He noted that neighbors like the project but are also concerned about its height. He questioned why site lines from some of the neighbor's backyards were not done to provide a better perspective of the finished project from those areas. MR. WITHEY said that they did not believe it was necessary and that the information provided was sufficient.

COMMISSIONER IRBY asked what exterior building materials were used on the Santan Corporate Center. MR. ERIC ZOBRIST, 2425 E. Camelback Road, responded to his question and said that the bulk of the elevations that are not glass are ethos. He noted that because of the additional height of the proposed building, they are planning to use more stone than they did on the other project.

In response to a question from COMMISSIONER SCHMIDT, MR. WITHEY explained that the proposal originally contained excess parking areas but it was eliminated when they agreed to remove one story of the building. He said they still meet the Code requirement, but there is no longer additional parking. COMMISSIONER SCHMIDT stated the opinion that the building is very attractive but just too tall. She asked if there was any way that some of the space that would otherwise be in three floors could be moved to retail pads that are A2 and A1 now. The one-story buildings could then remain along Federal but some of the height would be eliminated. MR. WITHEY said that in order to do that, the entire site would have to be redesigned and to look more like the Santan Corporate Center, and this would take a lot of time and cost a lot of money.

COMMISSIONER HEUMANN stated that the applicant has indicated that reducing the size of the building would negative impact the economics of the project and asked whether the economics would not work at all or whether the "best" economics would not work at all. MR. WITHEY responded that a certain amount of square footage is necessary to succeed and stated the opinion that their request takes into consideration the amount of square footage necessary to make the project a feasible and successful one.

COMMISSIONER FLANDERS commented on the amount and viability of the surrounding accessory retail uses, i.e. drycleaners, Starbucks, etc., and questioned how important it was to have additional retail on this corner instead of additional office space. He said he believed that additional office space would be more viable than additional accessory retail. MR. WITHEY reiterated that in order to accomplish this, the entire site would have to be designed, a lengthy and expensive process. He pointed out that they were talking about only 20,000 square feet of retail space along the corner and said that given its location near the office complex, they are convinced that accessory retail would be very successful and beneficial.

COMMISSIONER FLANDERS asked whether their intention was to have a 7-story office building from the beginning of whether other designs were considered. MR. WITHEY

responded that since he's been involved in the project its been 7-stories and said they start off by determining how much square footage is needed to make the project viable and proceed from there. He added the opinion that it provides a signature statement for the area.

COMMISSIONER FLANDERS asked whether ADOT needed approval from the City of Chandler to allow the left-turn lane to be constructed. MR. MAYO said he would like to direct that question to the City's Traffic Engineer but said he believes it is the other way around, that the City would need ADOT's permission. He noted that ADOT does not support the proposed left turn lane and therefore, no matter what the City decides to do, ADOT will make the final decision. He noted that they previously commented on whether the proposal would constitute the tallest building in Chandler and said he believes that an 8-story hotel has been approved at the mall. He was advised that the hotel is shy of the height of this building by approximately four feet, a similar height within a mile of this site.

COMMISSIONER HEUMANN requested that Traffic Engineer MIKE MAH clarify where ADOT owns the right-of-way on this project. MR. MAH referred to a diagram and noted the area and confirmed that ADOT has stated that they would not approve the turn because it is their right-of-way.

MR. WITHEY stated the opinion that the left-turn lane would be under ADOT's jurisdiction but the actual curb-cut itself is outside of ADOT's right-of-way.

MR. MAYO confirmed that a traffic study was conducted for this project. COMMISSIONER FLANDERS commented on the fact that the elimination of the turn lane would result in added traffic going down to Federal and turning eastbound to access the project. MR. MAYO said that he believed there were some discrepancies in the traffic study.

COMMISSIONER POLVANI said it made a lot of sense to her to provide places for the employees to eat that are within walking distance rather than utilize their vehicles and increase traffic congestion. She said asked when the Santan Corporate Center 5-story building was approved and was advised that a 3-story building was approved in 1998 and it included a two-level parking deck.

COMMISSIONER FLANDERS stated that a number of citizens have submitted requests to speak and he would like them to present their remarks at this time.

MANI NACHIMUTHU, 3322 West Venice Way, said he believes the project is attractive but he is concerned about the proposed height of the building. He discussed potential negative impacts on surrounding neighborhoods and asked the Commissioners not to approve the project at its current height.

COMMISSIONER FLANDERS stated that MARY COLLINGE, 781 N. Lisbon Drive, does not wish to speak but indicated that she supports the project.

BILL GEBALLOS, 3272 West Ross Drive, expressed the opinion that office space and some retail are good uses for the site but expressed concerns regarding traffic and adequate landscape buffering for the neighborhoods. He requested that the Commission require the applicant to plant tall trees, 20 to 30 feet in height and said that Federal is a collector street, designed to accommodate residential traffic, and urged the Commissioners to initiate steps to mitigate the impact of the additional traffic on the neighborhoods and provide sufficient setbacks.

COMMISSIONER FLANDERS advised that BEV MAYOR, 782 North Lisbon Drive, does not wish to speak but has indicated her support for the project.

LORI GRAY, 1130 N. Madrid, said she is speaking for herself and on behalf of a citizen who really wanted to attend the meeting but was unable to. She said that they both took the time to review the project, are impressed with the design and agree that it is a good use for the property. She commented that an 8 a.m. to 5 p.m. office building would cut down on nighttime traffic. She said that the citizen believes that the project will benefit the entire area and asked that the Commissioners recommend approval.

In response to a question from the Commissioner, MS. GRAY stated that no one had advised her that the offices would only be utilized between the hours of 8 and 5 and said they just assumed so.

DOUG JONES, 3343 West Megan Street, spoke in opposition to the project. He asked where the 8-story building that was previously mentioned was going to be located and was advised that the hotel will be at the Chandler mall near the freeway. He was also told that the Hearthstone neighborhood wraps around the site. He added that the location was not an appropriate one for a 7-story building and stated that the project would negatively impact the residents living in that area from a traffic and aesthetic standpoint.

Discussion ensued relative to the traffic study, traffic levels, the number of lanes, the fact that homes back up to Federal but do not face it, and the fact that Staff believes Federal will be able to handle the traffic without any problem.

COMMISSIONER FLANDERS stated that ELAINE WOLF, 3363 West Megan Street, had submitted a slip indicating that she wished to state her opposition to the project but she has left the meeting.

COUNCILMEMBER ELECT MARTIN SEPULVEDA, 891 North Madera Lane, said he lived less than one-half mile from the site. He stated that he believes residents in that area are happy to see something being built at that location. He added that he likes the current site plan that is being proposed. He commented on the fact that traffic will increase but there have to be "trade-offs." He stated that commercial/retail use was contemplated for that site for a very long time. He added that additional thought might have to be given to the traffic situation but said he is supportive of the project and hopes it is approved.

TRACY HALL, 3260 West Chandler Place, referred to a Notice of Objection to the 7-Story Building, dated March 8, 2004, which was prepared and submitted by Mr. Nachimuthu and signed by 96 residents of the Darcy Ranch subdivision. He noted that the residents are not opposed to the development of the parcel but they want the Commissioners to consider a revised proposal that will adequately address concerns regarding the building's height and traffic volumes.

COMMISSIONER FLANDERS thanked all of the speakers for their comments.

In response to a question from COMMISSIONER HEUMANN, MR. MAH advised that there are two and a half lanes at Federal and Ray. He also asked whether the Traffic Study showed Federal being two lanes all the way down towards the mall, one lane in each direction, and Mr. Mah confirmed that it shows one lane in each direction.

Discussion ensued relative to the theory that the only traffic that would turn down Federal would be cars coming from the west although ample spaces exist to enter the project, peak hour traffic volumes and Staff's opinion that there would be a minimal impact on Federal and the median cut would not make much of a difference.

MR. WITHEY addressed the members of the Commission and discussed the difficulties associated with developing a project of this size on a parcel that has "grown in" all around it. He stated that although it's impossible to please everyone, he does believe that the proposal has pleased quite a number of people. He added that as far as compatibility goes, there are many examples of Class A office buildings that have height and are excellent neighbors. He stated the opinion that the vacant parcel, zoned commercial, located right by the freeway could negatively impact property values since no one would know what eventually would be going in there. He added that the proposal is appropriate for that location and will have minimal impact on the neighborhoods as opposed to other types of projects that could be developed on that site. He commented that as far as the views from the interior neighborhood, they will be able to look over the one-story buildings and see the taller building but that is from pretty far back in the neighborhood and you would have to be looking down the street or over a home.

MR. WITHEY stated that although additional traffic will be generated, the proposed project will generate less than any type of retail business that could go in there.

COMMISSIONER SCHMIDT commented on the fact that that ADOT is opposing the curb cut and asked whether the applicant has looked into potential impacts on traffic resulting from the loss of the turn lane. She said she was confused about the access into the site when heading westbound. MR. WITHEY responded that they did look at potential impacts and believe they will be minimal. He added that he believed it was easiest to turn onto the frontage road when heading west and stated the opinion that there will not be a large amount of traffic cutting through the neighborhoods because of all the turns they would have to take to access one road. He reiterated his opinion that the project is appropriate and the right use for this site and requested that the Commission recommend to the Council that the proposal be approved.

In response to a question from COMMISSIONER HEUMANN relative to what the building would look like at night in terms of the amount of light being generated, MR. WITHEY stated that he really didn't have an answer for that but he was sure effort would be expended to mitigate impacts on neighborhoods in the lighting area.

COMMISSIONER POLVANI said that she would like to make a few comments, first that she believes the project is exceptional and the location is appropriate. She added that her hesitation was regarding the height and so today she went to a building on the freeway that would be similar in height to the proposed building, the Hilton Hotel by Fiesta Mall, and said that although she thought she would feel that it was too tall and overwhelming, she in fact felt that it was very appropriate because of its close proximity to the freeway.

COMMISSIONER HEUMANN said that the complex as a whole has some very viable points to it and commended the developer. He said his biggest concern is that a seven-story building at this location, across from a three-story building and next to multi-family housing. He summarized that he has a problem with the height of the project and added that the General Plan is very vague as far as the I-10 corridor, an urban setting, and this is what he has been wrestling with. He said that at this point he would still like to see it reduced, perhaps not down to three stories, but there does need to be some type of definition of scale. He commented that the proposed hotel at the mall will fit in because of the various heights in place at the mall.

COMMISSIONER IRBY asked whether the proposed 2-story health care center was ever approved and was advised it was. He stated that when he first looked at the project he was not that thrilled with it but the more he reviews it and listens to the discussions he believes it is turning out to be an excellent project. He added that he gave a lot of thought as to whether the building should be five or seven stories high and decided that the difference between five and seven stories would not significantly impact the neighborhood. He added that a seven-story building, with a little more height on the freeway, makes it a little more "dramatic." He said he was pretty much in favor of the project and agreed with the concept of building one-story buildings along Federal to provide a buffer from the neighborhood. He noted that this is the last phase of the project and may never happen but said he hopes that it does.

COMMISSIONER SCHMIDT reiterated that the project is extremely attractive and spoke in support of the use. She said her only hesitation is the height and she believes it is a philosophical issue in terms of how the City is looking at the overall plan for the placement of these tall buildings. She added that she believes the existing policy supports the opposite result of what Staff has interpreted it to be. She commented that the location is the wrong place for a seven-story office building and it will overpower the neighborhood.

COMMISSIONER FLANDERS said that he was glad to see the Santan Corporate Center come forward when it did and he has always envisioned this intersection as the entry point to the Price Road corridor all the way down to Wells Fargo, Intel, and other users along that corridor. He added that he thought putting this project at the proposed location is great, a seven-story Class A office building. He stated the opinion that it gives the message that "Chandler has come of age and has evolved into that market" and said it is extremely important for the City to do so. He noted that this type of development not only creates the energy for the on-site retail, it also creates more energy for the mall. He said the project makes sense to him and he supports it.

COMMISSIONER POLVANI MOVED to recommend to the Council that DVR03-0036 San Tan Mixed Use be approved subject to the stipulations noted by Staff.

In response to a question from COMMISSIONER IRBY, Staff advised that Stipulation #10 could be deleted.

COMMISSIONER POLVANI AMENDED HER MOTION to recommend to the Council that DVR03-0036 Santan Mixed Use be approved subject to stipulations 1 through 9 as follows:

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "San Tan Mixed Use," kept on file in the City of Chandler Planning Services Division in File No. DVR03-0036, except as modified by condition herein.
2. Right-of-way dedications to achieve full half width for Ray Road and Federal Street, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.
3. Completion of the construction of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details and design manuals.
4. The developer shall be required to install landscaping I the arterial street median adjoining this project. In the event that the landscaping already exists within such median(s), the developer shall be required to upgrade such landscaping to meet current City standards.

5. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.
6. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls.
7. Sign packages, including free-standing signs as well as wall-mounted signs, shall be designed in coordination with landscape plans, planting materials, storm water retention requirements, and utility pedestals so as not to create problems with sign visibility or prompt the removal of required landscape materials.
8. All perimeter landscaping along Federal Street and Ray Road shall be installed as part of Phase 1.
9. Retail A1, Retain A2 and Retail E are shown at a conceptual level only. Future PDP approval for building architecture is required.

COMMISSIONER IRBY SECONDED the motion, which carried by majority vote of those present (3 to 2).

VICE CHAIRMAN FLANDERS turned the meeting back over to CHAIRMAN RYAN.

(COMMISSIONER FLANDERS declared a brief recess at this time and the meeting then resumed.)

I. UP04-0002 EL DIAMANTE DINING AND DANCING
Request for Use Permit approval to sell liquor (Series 12 Restaurant License) at a new restaurant at 1964 N. Alma School, Suites 1 – 4.

CHAIRMAN RYAN announced that COMMISSIONER SCHMIDT had another engagement and had to leave the meeting.

Planner 1 THOMAS RITZ addressed the Commission relative to this agenda item and said it is a request for a Use Permit for alcohol sales (Series 12 ore Restaurant) for El Diamante Dining and Dancing. He advised that Staff, including the Police Department, is recommending approval and explained that property has housed a variety of restaurants in the past. The last liquor sales Use Permit on this site was for Boomer's Dining and Dancing Stix. The Use Permit, approved by the City Council on December 12, 2002, was for a Series 6 liquor license and had a one-year expiration. When the applicant for Boomer's Use Permit was notified of the expiration, they replied that they had closed and would not reopen and therefore a Use Permit for the new restaurant is required.

MR. RITZ added that the restaurant owner is currently operating the Tacos y Mariscos la Sirenita restaurant at the southeast corner of Alma School Road and Ray Road and noted that the restaurant has an existing Use Permit for a Series 12 license also.

COMMISSIONER HEUMANN asked whether there is dancing at the second restaurant or if it is simply a restaurant. MR. RITZ responded that there is no dance floor at that location.

NANETTE ZENDEJAS, the applicant in the case, and said that they intend to try a different type of menu at the restaurant and stressed the importance of being able to serve marguerites

and other drinks. She added that they are excited about the dancing aspect but emphasized that the business will not be a nightclub.

CHAIRMAN RYAN noted that there are three entrances and exits into the restaurant and asked how they will control patrols going in and out. She advised that two of the entrances/exits will be closed off since only one (front double doors) is required. She said that for the most part a disc jockey will provide the music and the only time life music would occur is in the case of a mariachi band or a trio.

COMMISSIONER IRBY asked how billiard tables fit into a fine dining restaurant and MS. ZENDEJAS responded that they have extra space and that is why they thought about putting in billiard tables. She said there are no tables at the current time and they just wanted to have that option in case they decide to do that in the future. He asked if the Commission approved the request with a stipulation that states the dance floor can only be used for closed catered parties or banquets, (once or twice a month) rather than as a day-to-function of the business, would that be acceptable to the applicant. She responded that it would be okay.

COMMISSIONER IRBY said that the previous business had pool tables in place and asked if they had been removed. MS. ZENDEJAS advised that everything has been cleaned out.

COMMISSIONER HEUMANN said he just wanted to relay the Commission's concerns regarding the fact that the establishment is very close to a neighborhood and if the applicant is willing to abide by the stipulation suggested by Commissioner Irby, he would support moving forward. He added that if the business is very successful, he would not like it to become a "catering hall" rather than a restaurant and therefore wanted to limit the dancing to two or three times a month. MS. ZENDEJAS stated that if it was successful and they wanted to expand their catering, they would have to come before the Commission and if the restaurant does well, they will be happy to have it remain a fine dining establishment with occasional catered affairs.

MS. ZENDEJAS said she could understand the citizens' concerns based on the way the previous businesses were conducted but assured the Commissioners that her operation will be high quality and resident friendly.

COMMISSIONER HEUMANN MOVED to recommend to the Council that UP04-0002 EL DIAMANTE DINING AND DANCING, be approved subject to the removal of the words "live music" in Stipulation #6; adding Stipulation #8 for a time stipulation of one year (the business will be monitored and at the end of one year, if it is working out well, the Use Permit can be extended); and Stipulation #9 that dancing be limited to two to three times a month for catered events only, as well as the other Stipulations recommended by Staff.

1. The Use Permit granted is for a Series 12 license only, and any change of license shall require reapplication and new Use Permit approval.
2. Expansion or modification beyond the proposed 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 and approval of the Use Permit.
4. The Use Permit is non-transferable to any other location.
5. No alcohol shall be carried outside of the building into the parking lot or off-premises.
6. Decibel levels of recorded music shall be controlled so as not to present a nuisance to residential properties beyond the boundaries of the Warner Plaza shopping center.

7. Customer access into the restaurant from the rear (alley side), or south side (Stottler Street side) shall be prohibited.
8. The Use Permit shall be subject to a one-year time limit after which the applicant can apply for an extension if the operation has operated according to the requirements.
9. Dancing will be limited to two to three times a month for catered affairs only.

VICE CHAIRMAN FLANDERS SECONDED THE MOTION, which CARRIED UNANIMOUSLY by those present (5 – 0).

J. UP04-0007 AZ MEXICAN MARKET
Request Use Permit approval to sell liquor (Series 10 Beer and Wine License) at a grocery store at 701 South Arizona Avenue.

Planner 1 ASHLEY BAILEY addressed the Commission relative to this item and said that this is a request for a Use Permit to sell liquor (Series 10 Beer and Wine License) for off-premise consumption only within a new grocery store located on property zoned Regional Commercial District (C-3). She explained that a recent previous tenant, Mama Mia Panderia and Market, had been operating with a Use Permit for a Series 10 Liquor License since September 1998 without violation and said this Use Permit application is required due to the expiration of the previous permit.

MS. BAILEY advised that Staff has received one phone call from a neighbor in support of the case and another from a neighboring business owner opposed to the case. The citizens are concerned about the existing alcohol sales in the area and the continuing problem of loitering and alcoholic consumption along Arizona Avenue. Staff also received a petition and two letters in opposition to the application and one petition in favor of the application.

MS. BAILEY noted that the 1,240 square-foot grocery store will be located on the SEC of Arizona Avenue and Morelos Street and will be open every day from 7 a.m. to 10 p.m. She said that Staff recommends approval subject to conditions.

In response to a question from COMMISSIONER HEUMANN, MS. BAILEY stated that the Police Department recommended denial and noted that they have concern about the liquor violations for the general area, nothing specific about this user.

Discussion ensued relative to limited on-street parking; the fact that there are six additional similar businesses in the area; and the previous site that was denied for this business.

HUGH ENNIS, a consultant, 4531 E. 16th Street, Phoenix, speaking on behalf of the applicant, said it is essentially a small convenience store operating very much as it has been since 1998 without any problems. The applicant has two other stores that are also operating successfully and without complaints. Most of the people will be walk-in patrons.

MS. BAILEY explained that the 3-year use permit for the prior business has expired.

Discussion ensued relative to the fact that the Commissioners would like to have additional information from the Police Department regarding this application.

MS. LEENA BEAVERS addressed the members of the Commissioners said that the previous business closed approximately four months ago. She stated that she has seen a lot of changes in the neighborhood during the 22 years she has lived there and efforts are being made to improve

it. She said that the residents want a grocery store of that location and support the proposed use.

CHAIRMAN RYAN thanked her for her input.

In response to a question from the Commission, MS. BAILEY noted that approximately 40% of all liquor violations occurred in that general area.

COMMISSIONER HEUMANN commented that, based on Council's direction and the Police Department's concerns, he cannot support the proposal.

COMMISSIONER HEUMANN MOVED to recommend to the Council that they deny the request for UP04-0007 AZ MEXICAN MARKET. COMMISSIONER IRBY SECONDED the motion.

VICE CHAIRMAN FLANDERS said that he does not support the addition of another liquor market in that area.

The motion CARRIED UNANIMOUSLY by those present (5 – 0).

7. DIRECTOR'S REPORT
MR. KURTZ commented on the large case that will be heard by the Commissioner's at their next meeting and encouraged them to contact him if they have any questions.

8. CHAIRMAN'S ANNOUNCEMENT
The next regular meeting was set for April 21, 2004, at 5:30 P.M. in the Council Chambers.

The Commissioners thanked Staff for providing information regarding the upcoming meeting in such a timely manner and wished MR. WEWORSKI a speedy recovery from his car accident.

Planning and Development's annual spring picnic will take place on Thursday, April 15th at Desert Breeze from 11:30 to 1:30. Call Linda if you plan to attend.

9. ADJOURNMENT
The meeting was adjourned at 8:30 P.M.

_____
Phil Ryan, Chairman

_____
Douglas A. Ballard, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, April 21, 2004, held in the City Council Chambers, 22 S. Delaware Street.

Chairman Ryan called the meeting to order at 5:35 P.M.
Pledge of Allegiance lead by Commissioner Anderson.
The following Commissioners answered Roll Call:

Chairman Phil Ryan	Commissioner Mark Irby
Vice Chairman Michael Flanders	Commissioner Brett Anderson
Commissioner Janette Polvani	
Commissioner Rick Heumann	

Absent & Excused: Commissioner Shiela Schmidt

Also Present:

Mr. Jeff Kurtz, Current Planning Manager
Ms. Ashley Bailey, Planner
Mr. Kevin Mayo, Planner
Mr. Glenn Brockman, Assistant City Attorney
Ms. Linda Porter, Secretary

APPROVAL OF MINUTES

MOVED BY VICE CHAIRMAN FLANDERS, seconded by COMMISSIONER HEUMANN to approve the minutes of the April 7, 2004 meeting. MOTION WAS APPROVED (6-0).

5. CONSENT AGENDA

CHAIRMAN RYAN stated that all items, with the exception of Item B "AP03-0002/DVR03-0044/PPT04-0002 Fulton Ranch", were on the Consent Agenda. Mr. Kurtz stated there were no additional stipulations.

A. AP03-0001 AIRPARK AREA PLAN AMENDMENT

CONTINUED TO THE JUNE 16, 2004 PLANNING AND ZONING AGENDA, a City initiated request to amend the permitted land use designations defined in Chapter 2.4 of the Airpark Area Plan. The proposed amendment would allow public assembly uses, including churches, public and private schools, fitness and recreation facilities, and conference facilities, to locate within a quarter-mile corridor along the east side of Arizona Avenue bound by Willis and Appleby Roads and Southern Pacific Railroad.

C. DVR03-0045 ARROWHEAD PROFESSIONAL OFFICE BUILDING

APPROVED, a request for rezoning from Agricultural District (AG-1) to Planned Area Development (PAD) with Preliminary Development Plan (PDP) approval for a neighborhood office development on approximately 1.5-acres located at the NWC of Ray Road and Arrowhead Drive. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "ARROWHEAD PROFESSIONAL OFFICE BLDG" kept on file in the City of Chandler Current Planning Division, in file number DVR03-0045, except as modified by condition herein.

1. Right-of-way dedications to achieve full half widths for Ray Road and Arrowhead Drive, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.
2. The landscaping in all open spaces and rights-of-way shall be maintained by the adjacent property owner or property owners association.
3. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls.
4. Sign packages, including free-standing signs as well as wall-mounted signs, shall be designed in coordination with landscape plans, planting materials, storm water retention requirements, and utility pedestals, so as not to create problems with sign visibility or prompt the removal of required landscape materials.
5. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.
6. Completion of the construction, where applicable, of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details, and design manuals.

D. <u>UP04-0003 THE ROCK YARD, INC.</u>

CONTINUED TO THE MAY 5, 2004, PLANNING AND ZONING COMMISSION MEETING, a request for Use Permit approval to allow a modular building in Planned Industrial District (I-1) zoning. The property is located at 4005 West Kitty Hawk.

E. <u>UP04-0011 EL RANCHO MARKET</u>

APPROVED, a request for Use Permit approval to sell liquor (Series 10 Beer and Wine License) at a grocery store at 1076 North Arizona Ave.

1. The Use Permit is for a Series 10 liquor license only, and any change in type of license shall require reapplication and new Use Permit approval.
2. Expansion beyond the approved Floor Plan shall void the Use Permit and require new Use Permit application and approval.
3. The Use Permit is non-transferable to any other store location.

F. <u>PPT03-0009 CHUPAROSAS</u>

APPROVED, a request for Preliminary Plat approval for a mixed-use development that includes commercial retail/office, institutional, and residential uses on an approximate 40-acre parcel located at the southwest corner of Dobson and Germann Roads.

G. <u>PPT04-0009 GATEWAY MARKETPLACE</u>

APPROVED, a request for Preliminary Plat approval for a commercial development on an approximate 16-acre parcel located at the northwest corner of Riggs Road and Gilbert Road.

MOVED BY COMMISSIONER HEUMANN, seconded by **COMMISSIONER IRBY, TO APPROVE THE CONSENT AGENDA** as read by the Chairman. **MOTION WAS APPROVED (6-0).**

6. ACTION ITEM

B. AP03-0002/DVR03-0044/PPT04-0002 FULTON RANCH

MR. BOB WEWORSKI, PRINCIPAL PLANNER, stated that this is a request for Area Plan Amendment, rezoning from Agricultural and County land to Planned Area Development, along with Preliminary Development Plan and Preliminary Plat approval. This project is located within a square mile in Chandler, and probably the largest undeveloped property in Chandler. It's approximately 540 acres in size and is bounded by Ocotillo Road on the north side, Arizona Avenue on the east side, Chandler Heights Road on the south side, and Basha Road on the west side. It includes mixed-use development, and has been truly master-planned. Mr. Weworski pointed out that this project includes approximately 370 acres of single-family residential, townhouse and condominium land uses, commercial development on three arterial corner intersections, church property, a school, and a city park. Staff is recommending approval with conditions.

Mr. Weworski stated that Staff feels this is a truly integrated project. It's a mixed-use development that is master-planned with different land uses, all tied together by a lake system that is centrally located within the project, as well as a collector street and pedestrian path system that interconnects the different land uses.

Part of the request is for an Area Plan Amendment to amend the Section 21 Area Plan. That existing Area Plan included many of the same land uses as the request before Commission. The only difference was to take out the Office Business Park as a result of the Airpark Area Plan changing some contours. Also, it was originally planned for a regional city park. That was changed to allow for a local city park here. The regional city park is the Tumbleweed Park that is north and east of this site.

There is also request to rezone, as well as a request for Preliminary Development Plan. This project includes rezoning and Preliminary Development Plan for virtually every entire land use in part of this site. The only exception is the Preliminary Development Plan for housing product, which will come at a future date. This would be for the center portion of the project (the larger lot, single-family development) and also a church along Ocotillo Road. This development is located in south Chandler on the west side of Arizona Avenue. It includes the single-family detached development, including seven different neighborhoods, varying in lot sizes, and also includes the housing product. The product conforms to, and many times exceeds, the residential development standards for a single-family development. There's also the residential component for the town homes and condominiums, located off the main collector street system of Fulton Ranch Boulevard. Those also exceed the standards in many cases. It's an integrated development. The project theme is very strong and carries through with the all the other project theme features. In both site layout and architecture, the main theme is the Tuscan architecture. Staff finds it to be well within conformance with our standards.

The other portion is the commercial development. There are three commercial parcels on this site. The Towne Center is at the southwest corner of Ocotillo Road and Arizona Avenue, which includes a Large Single Use Retail developer, which is the Lowe's home improvement center. This comes into play with the Large Single Use Retail standards. Staff evaluated this and found it to be in compliance as to the measures that are needed to provide proper buffering, the architectural treatments, embellishments, and the notification process to potential homebuyers about the Large Single Use Retail. The same commercial center also includes other types of retail development at

the arterial intersection. It also has a number of retail buildings set in landscape settings. Staff found that it exceeds the commercial design standards.

There are two other commercial developments at this site; one at the northwest corner of Chandler Heights Road and Arizona Avenue, which is a more traditional marketplace center. It's a grocery-anchored center with retail pads. It carries the Mediterranean Tuscan architectural features and has four-sided architecture, screening, buffering, and connections to the neighborhoods adjacent to the property. The other commercial property is called Promenade, located at Alma School Road and Chandler Heights Road, and will include retail development as well as office. It's located along the collector street system with a lake buffering the commercial and the multi-family to the east.

There have been three neighborhood meetings with adjacent neighborhoods with respect to this project. Part of the notification process on both the Area Plan Amendment and the rezoning includes more notification to try to get the word out to the neighbors. Staff believes the applicant has been successful with doing that. Primarily there has been a lot of support for this project; a lot of people are excited about it and realize that it is a quality development. The applicant has done a great job in working with the neighbors and handling any issues.

Staff is recommending approval with conditions. Staff submitted to the Commission an additional memo with additional stipulations Nos. 33 through 40, with also an amended stipulation No. 32 from the original memo. There is also an additional No. 41, regarding the standard airport notification stipulation to let all buyers know that there are airport impacts in the area.

VICE CHAIRMAN FLANDERS stated that he was quite impressed with the level of detail in the residential, commercial, and standards throughout the entire development. He complimented both Staff and the developer for this all coming together so well.

COMMISSIONER ANDERSON stated for the record that he would be abstaining on this item.

ED BULL, 702 E. OSBORN stated that Fulton Ranch is a wonderful, high-quality, integrated mixed-use community. It's a community that's been designed in conjunction with input from Staff, by Fulton Homes, Cache, and by Redd Development. Mr. Bull extended their appreciation to Staff for the help and guidance that was shown to them throughout the development, as well as Staff's recommendation for approval. He stated that they accept stipulations 1-41 directed by Staff and request Commission's approval of the Area Plan Amendment, the PAD, the PDP, and the Preliminary Plat.

This site is surrounded on four sides by arterial streets. It's a site that has been planned with true mixed- use centered on open space and a lake system, and incorporates three different single-family lot sizes, town homes, condominiums, and three commercial corners. Eight-two acres of open space is included, as well as twenty-eight acres which is lakes, waterfalls, ramadas, and different lake features. There are three miles of trails.

There are three different single-family parcel sizes that occur. Series One has minimum lot sizes of 65'x134', which is about 8,710 square feet. There's a tremendous amount of architectural diversity and quality incorporated in these homes. Staff has indicated that the series exceeds the various diversity guidelines.

Series Two has a minimum lot size of 87'x140', approximately 12,180 square feet. There is a great deal of architectural diversity. These by far exceed the diversity standards. The single-family

density on the single-family portion of this development is under two units per acre. The single-family is all by Fulton Homes.

The site plan for the condominium development is very well designed, and Cache Homes is the developer. The housing product is a very high-quality housing product. It's something that brings a great deal of architectural finish and detail to the condo development.

The town home site plan is a parcel surrounded by lakes. The housing product shows a great deal of architectural finish and detail, closed garages, a really finished high-quality look that provides a housing alternative for folks that no longer want to deal with all the issues and maintenance associated with owning a single-family detached homes. These folks choose the "lock and leave it" life style in a resort like setting.

The commercial parcels are located at three corners. The two corners on Arizona Avenue have been noted for years as commercial nodes. The other commercial corner is intended to be a smaller scale, mixed-use type of office, service provider, and retail kind of development.

The commercial parcel located at the southwest corner of Arizona Avenue and Ocotillo Road is the Towne Center. It's the largest of the three corners and includes Lowe's. There's a great deal of architectural movement and tremendous landscaping. This corner, as well as the other two commercial corners, will be brought forward by Redd Development, a very high-end commercial developer.

The second commercial corner at the northwest corner of Arizona Avenue and Chandler Heights Road has very interesting site planning with buildings being placed on an angle, very significant landscaping along the street frontages, water feature at the corner, interesting kinds of things happening in the parking lots, pad locations, etc. Also, there's good separation of buffering between the commercial and the residential homes.

The third corner is at the northeast corner of Alma School Road and Chandler Heights Road and is laid out for retail service providers and office opportunities. On this site there's a stipulation that addresses a maximum size of a retail building of being 35,000 square feet as the maximum retail size. Lakes have been incorporated along the frontage, as well as interesting pedestrian connections occurring by the condominium site, and there's interesting landscaping with corner treatments.

Mr. Bull explained that there are over 100 exhibits contained within the Development Booklets for Fulton Ranch that provide a great amount of detail including site planning, architecture, walls, entryway features, etc. There's an extraordinary amount of detail. He stated that Staff, in conjunction with Fulton, Redd, and Cache have wanted to come forward with a development that is truly mixed-use, high quality, and something that they can proudly say is meeting or exceeding every standard that they are aware of that the City has ever set. He stated that they believe this is a wonderful development. It's a development that is strongly supported by Staff and a development that has been presented to the neighbors by going door to door and at neighborhood meetings. There have been 223 signatures in support, and some e-mails have been sent to Staff. Mr. Bull stated he would do his best to answer any questions if there were any. The asked that Commission approve the applications in accordance with Staff's recommendation.

In response to a question from Chairman Ryan, Mr. Bull stated that he has been involved with this project for approximately one year or more. The effort made by Fulton, Redd, and Cache was extraordinary, as well as the various consultants, be it architects, engineers, or others that have been

involved has been extraordinary. He stated that it was a pleasure to work with the builders, as well as the consultants.

In response to a question from Vice Chairman Flanders, Mr. Bull stated that Redd Development intends to start each of the three commercial centers at the same time, with openings occurring in 2006. The phasing and starts of the Lowe's and other things on Phase 1 and per market demand, will go from there. The desire is to get the centers underway, visible, and established. They will quite possibly be ready to open before Fulton is in a position to have occupancy of homes. When asked by Vice Chairman Flanders when the residential will be ready to go, Mr. Bull stated that the goal is to get through the zoning approval processes, then Fulton will immediately go into the platting process. Fulton would like to be mass grading by December 2004 or January 2005. He commented there is a tremendous amount of site development work and infrastructure, streets, walls, etc. in Phase 1, and then moving into the models and house starts from there.

COMMISSIONER HEUMANN asked if any other tenants have been identified other than Lowe's. Mr. Bull stated not as yet. COMMISSIONER IRBY commented that this is a nice project.

CHAIRMAN RYAN stated that it was his decision to bring this item from the Consent agenda to become an Action item as he wanted the viewing audience to see what is going on, due to the size and scope of the project and because it is a great, nice development for Chandler.

CHAIRMAN RYAN stated that a number of speaker cards had been received pertaining to this case. To the audience he stated that when he called their name, if they wanted to come forward and speak, they could do. Chairman Ryan went on to say that everyone that turned in a speaker card were in favor of this project.

CHAIRMAN RYAN stated that BARB HOUGHTON, 4921 S. Wildflower Place, does not wish to speak, but indicated that she was in favor of this item.

CHAIRMAN RYAN stated that FRANCES BALL, 619 W. Citrus Way, does not wish to speak, but indicated that she was in favor of this item.

ED RICCIO, 475 W. Redwood Drive, stated that he lives approximately four miles from where the proposed Fulton Ranch is to be built. He stated that he wholeheartedly supports this development. He felt that they had done a terrific job. The management of Fulton Homes contacted the Fox Crossing HOA, of which he is a board member of, very early in the process and gave them a very thorough presentation. He commented that his only concern is the potential of traffic using Sandpiper Drive to get to the Albertson's shopping center. He felt that Sandpiper is not a road prepared to handle a lot more traffic. He did express this concern early on to Fulton Homes. He said they had somewhat mitigated some of his concerns. He stated that, due to miscommunication, he had not seen the traffic study. He felt that if Staff had seen the traffic study and was happy and comfortable with the study, then he would yield to Staff's expertise. He stated that he wanted to go on the record with his concern about potential traffic problems out in the open. Mr. Riccio stated that the project would be a welcome addition to south Chandler and looks forward to having it completed. Chairman Ryan thanked Mr. Riccio.

COMMISSIONER IRBY stated that he lives in Ocotillo East and has to pull onto Sandpiper to get to work. He went on to say that he had met with Staff and asked them to look at the possibility of adding some four-way stops on Sandpiper to help stop traffic, to make it less desirable to drive through as a great shortcut to get to Alma School and to the Santan Freeway. Commissioner Irby

stated that he is not in favor of speed bumps, as he felt it destroys cars. Staff is looking into the ability of adding the stop signs and that he would keep on top of this matter.

DAN CIFALIA, 5080 McClelland Drive, stated that since being contacted by Fulton Homes last year as they went through the communities and talking to the residents, he and his wife have been excited about this project happening and feels that it would bring a lot to the area. He stated that he lived across Chandler Heights Road in Oakwood Lakes, and the idea of having all the new shopping choices and the lifestyle across the street is exciting. He felt that Fulton Homes is a very credible builder and has a great reputation in the Valley. He wanted to say they were very happy to have them across the street. Chairman Ryan thanked Mr. Cifalia.

CHAIRMAN RYAN asked if DAVID OLNEY would like to come forward to speak, but found that he was no longer present.

BRUCE HOUGHTON, 4921 S. Wildflower Place, stated he was very happy to see this development occurring. He lives in Ocotillo Lakes and has been viewing this open parcel for some time, as well as viewing other developments that Fulton Homes have been involved with. He stated that he is very excited to learn that Fulton Homes is the one that is undertaking this development because he felt that they are one of the premier homebuilders and developers in the East Valley. Mr. Houghton stated that this plan reflects that. He feels it's a well thought out plan and will be a real asset to the area. He stated that he wanted to express his interest and support of the project. Chairman Ryan thanked Mr. Houghton.

HONEY DE SERRE, stated that she lives in Ironwood Estates, across the street from the cemetery. She stated that all her neighbors went to the original meeting with Fulton and that they are very excited about the project, as well as she. She is in hopes that they hurry up and do it. Chairman Ryan thanked her for her comment.

CHAIRMAN RYAN closed the floor at this time. He stated that there would be multiple actions. Mr. Kurtz said there would be two motions, one for the Area Plan and one for the rest of the actions. When asked if there should be two separate motions, Mr. Kurtz responded that it didn't matter, as long as it is clear on the record that the stipulations that go along with the rezoning apply to the rezoning part and not the Area Plan. He went on to say that all 40 of the stipulations apply to the rezoning. The plat has a separate stipulation.

MOVED BY COMMISSIONER HEUMANN, SECONDED BY VICE CHAIRMAN FLANDERS TO APPROVE AP03-0002/DVR03-0044/PPT04-0002 FULTON RANCH, subject to stipulations 1-41. WHEN THE VOTE WAS TAKEN, THE MOTION PASSED 5-0 WITH ONE ABSTENTION (MR. ANDERSON). For clarification, Mr. Kurtz asked if the motion included the Area Plan. Commissioner Heumann and Chairman Ryan stated it did.

7. DIRECTOR'S REPORT - No report.

8. CHAIRMAN'S ANNOUNCEMENT

The next regular meeting was set for May 5, 2004, at 5:30 P.M. in the Council Chambers.

9. ADJOURNMENT

The meeting was adjourned at 6:13 P.M.

_____
Phil Ryan, Chairman

_____
Douglas A. Ballard, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, May 5, 2004, held in the City Council Chambers, 22 S. Delaware Street.

1. Chairman Ryan called the meeting to order at 5:34 P.M.

2. Pledge of Allegiance lead by Commissioner Irby.

3. The following Commissioners answered Roll Call:
   Chairman Phil Ryan — Commissioner Mark Irby
   Vice Chairman Michael Flanders — Commissioner Brett Anderson
   Commissioner Janette Polvani
   Commissioner Rick Heumann

   Absent & Excused: Commissioner Shiela Schmidt

   Also Present:

   Mr. Jeff Kurtz, Current Planning Manager
   Mr. Bob Weworski, Principal Planner
   Ms. Ashley Bailey, Planner
   Mr. Kevin Mayo, Planner
   Ms. Jodie Novak, Planner
   Mr. Thomas Ritz, Planner
   Mr. Glenn Brockman, Assistant City Attorney
   Ms. Linda Porter, Secretary

4. APPROVAL OF MINUTES

MOVED BY COMMISSIONER IRBY, seconded by VICE CHAIRMAN FLANDERS to approve the minutes of the April 21, 2004 meeting. MOTION WAS APPROVED (6-0).

5. ANNUAL PLANNING COMMISSION BUSINESS MEETING

Election of Officers:

A. CHAIRMAN

MOVED BY VICE CHAIRMAN FLANDERS, seconded by COMMISSIONER IRBY, that PHIL RYAN be re-elected Chairman of the Planning and Zoning Commission. MOTION WAS APPROVED BY THOSE PRESENT (6-0).

B. VICE CHAIRMAN

MOVED BY CHAIRMAN RYAN, seconded by COMMISSIONER HEUMANN, that MICHAEL FLANDERS be re-elected Vice Chairman of the Planning and Zoning Commission. MOTION WAS APPROVED BY THOSE PRESENT (6-0).

6. CONSENT AGENDA

CHAIRMAN RYAN recommended that Agenda Items A, B, C, E, F, H, and I (including the additional stipulations) be approved on the Consent Agenda.

CHAIRMAN RYAN also requested that the additional conditions that had been added be read into the record.

JEFF KURTZ, CURRENT PLANNING MANAGER, advised that Staff is recommending several additional stipulations:

A. DVR02-0010/PPT03-0018 TRE'ALLAGIO

13. ***"The development shall provide sound attenuation measures in accordance with ADOT standard details and requirements excepting any decibel reductions or noise attenuation credits for the use of rubberized asphalt paving surface. Any noise mitigation if required is the responsibility of the development. Buildings 1 through 7, 29, and 30 shall achieve an interior level of 45 decibels or lower."***

14. ***"Decorative lighting at the garage doors shall be provided throughout the development."***

15. ***"Landscape planters between garages must be provided."***

16. ***"Provide a 36-inch or 42-inch high view fence around the tot lot adjacent to the street.."***

17. ***"Move building no. 2 closer to the freeway frontage by five feet to the west."***

18. ***"The applicant shall work with Staff on the number and location of trash containers."***

19. ***"The applicant shall work with Staff to vary the architectural features around adjacent pedestrian doorways."***

20. ***"The same building elevation shall not be built side-by-side for buildings 1, 2, and 3."***

Mr. Kurtz stated that the next item, with one additional stipulation, was for Item H; however, he noted that the applicant for this item had not arrived as yet to the meeting so they didn't have his concurrence, but it was Staff's recommendation to add the following condition.

H. UP04-0009 VON HANSON'S MEATS AND SPIRITS

4. ***"The Use Permit shall be in effect for one year from the date of Council approval. The sale of alcohol beyond that date will require re-application and approval of a new Use Permit."***

A. DVR02-0010/PPT03-0018 TRE' ALLAGIO

APPROVED, a request for rezoning from Agricultural (AG-1) to Planned Area Development (PAD) for a residential condominium development with Preliminary Development Plan (PDP) approval for subdivision layout and housing product, along with Preliminary Plat approval. The property is located north of the northeast corner of Price Road and Mesquite Street, on the east side of northbound Price Road and approximately one-quarter mile south of Elliot Road.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Tre' Allagio," kept on file in the City of Chandler Planning Services Division, in File No. DVR02-0010, except as modified by condition herein.

2. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.

3. Right-of-way dedications to achieve full half-widths including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan and ADOT requirements.

4. Undergrounding of all overhead electric (less than 69kv), communication, and television lines and any open irrigation ditches or canals located on the site or within adjacent right-of-ways and/or easements. Any 69kv or larger electric lines that must stay overhead shall be located in accordance with the City's adopted design and engineering standards. The aboveground utility poles, boxes, cabinets, or similar appurtenances shall be located outside of the ultimate right-of-way and within a specific utility easement.

5. Completion of the construction of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details, and design manuals.

6. Future median openings shall be located and designed in compliance with City adopted design standards (Technical Design Manual # 4).

7. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or a homeowners' association.

8. The covenants, conditions and restrictions (CC & R's) to be filed and recorded with the subdivision shall mandate the installation of front yard landscaping within 180 days from the date of occupancy with the homeowners' association responsible for monitoring and enforcement of this requirement.

9. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Public Works for arterial street median landscaping.

10. The homes shall have all copper plumbing for those lines under water pressure.

11. The tot lot shall be a minimum of 20 total play stations.

12. Homebuilder will advise all prospective homebuyers of the information on future City facilities contained in the City Facilities map found at www.chandleraz.gov/infomap, or available from the City's Communication and Public Affairs Department. The homebuilder shall post a copy of the City Facilities map in the sales office showing the location of future and existing City facilities.

13. **The development shall provide sound attenuation measures in accordance with ADOT standard details and requirements excepting any decibel reductions or noise attenuation credits for the use of rubberized asphalt paving surface. Any noise mitigation if required is the responsibility of the development. Buildings 1 through 7, 29, and 30 shall achieve an interior level of 45 decibels or lower.**

14. **Decorative lighting at the garage doors shall be provided throughout the development.**

15. **Landscape planters between garages must be provided.**

16. **Provide a 36-inch or 42-inch high view fence around the tot lot adjacent to the street..**

17. **Move building no. 2 closer to the freeway frontage by five feet to the west.**

18. **The applicant shall work with Staff on the number and location of trash containers.**

19. **The applicant shall work with Staff to vary the architectural features around adjacent pedestrian doorways.**

20. **The same building elevation shall not be built side-by-side for buildings 1, 2, and 3.**

Staff recommends approval of the Preliminary Plat subject to the following condition:

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.

B. DVR03-0038 CITY OF CHANDLER INITIATIVE – CIRCLE G PHASES 1-4

APPROVED, a City of Chandler Initiative for approval of the establishment of initial City zoning of Single-Family 33 District (SF-33) on approximately 159 acres located west of the northwest Corner of Riggs Road and Gilbert Road.

1. The required setbacks shall be 40 feet front, 20 feet on each side, and 40 feet rear.

C. DVR04-0006 CITY OF CHANDLER INITIATIVE – NORTHWEST CORNER OF GILBERT ROAD AND CHANDLER HEIGHTS ROAD

APPROVED, a City of Chandler Initiative for approval of the establishment of initial City zoning of Agricultural District (AG-1) on approximately 46 acres located near the northwest corner of Gilbert Road and Chandler Heights Road.

E. DVR04-0008 SAN VENTANA

APPROVED, a request for action on the existing Planned Area Development (PAD) zoning to extend the conditional schedule for development, remove, or determine compliance with the two year schedule for development or to cause the property to revert to the former Agricultural

(AG-1) zoning classification on property located north of the northwest corner of Arizona Avenue and Knox Road. Staff recommends approval of a three-year time extension.

1. Compliance with the original stipulation adopted by the City Council as Ordinance 3329, case DVR04-0008 San Ventana, except as modified in condition herein.

F. PDP04-0007 SUN GROVES PARCEL 20 – MORRISON HOMES

APPROVED, a request for Preliminary Development Plan approval for housing products on 69 lots located on approximately 18 acres within the Sun Groves residential subdivision, on the north side of Hunt Highway, one-half mile west of Val Vista Drive.

1. Development shall be in substantial conformance with the Development Booklet, entitled, "Morrison Homes at Sun Groves, Parcel 20 PDP for Housing Products", kept on file in the City of Chandler Planning Services Division, in File No. PDP04-0007, except as modified by condition herein.

2. Compliance with the original stipulations adopted by the City Council as Ordinance 2943, case PL98-158 Sun Groves, except as modified in condition herein.

3. All homes built on corner lots within the residential subdivision shall be single-story.

4. The same front elevation shall not be built side-by-side or directly across the street from one another.

5. For lots adjacent to Hunt Highway and Hillcrest Drive, two-story homes are limited to every third lot.

6. When two-story homes are built on adjacent lots, a 20-foot separation shall be provided between homes.

7. No more than two adjacent lots shall have identical rear elevation rooflines visible from arterial streets.

8. The same front elevation shall not be built on adjoining homes or homes across the street from each other.

9. Prior to the time of making any lot reservations or subsequent sales agreements, the home builder/lot applicant shall provide a written disclosure statement, for the signature of each buyer, acknowledging that the subdivision is located adjacent to or nearby an aircraft engine testing facility and an airplane aerobatic training area that may cause adverse noise, odors, and other externalities. The “Public Subdivision Report”, “Purchase Contracts”, and CC&R’s shall include a disclosure statement outlining that the site is adjacent to or nearby an aircraft engine testing facility and an airplane aerobatic training area, and the disclosure shall state that such uses are legal and should be expected to continue indefinitely. The disclosure shall be presented to prospective homebuyers on a separate, single form for them to read and sign prior to or simultaneously with executing a purchase agreement. This responsibility for notice rests with the homebuilder/lot applicant and shall not be construed as an absolute guarantee by the City of Chandler for receiving such notice.

10. Homebuilder will advise all prospective homebuyers of the information on future City facilities contained in the City Facilities map found at www.chandleraz.gov/infomap, or available from the City's Communication and Public Affairs Department. The homebuilder shall post a copy of the City Facilities map in the sales office showing the location of future and existing City facilities.

11. The applicant shall work with Staff to revise the front elevation for Plan 370 A, providing additional building materials, paint colors, and articulation relating to the Spanish Colonial architectural style.

H. UP04-0009 VON HANSON'S MEATS AND SPIRITS

APPROVED, a request for Use Permit approval to sell liquor (beer and wine) for off-premise consumption only (Series 10 License) at a Grocery Store and Meat Market located at 2390 N. Alma School Road, in Suite 101.

1. The Use Permit is for a Series 10 license only, and any change in type of license shall require reapplication and new Use Permit approval.

2. The Use Permit is not transferable to any other store location.

3. Expansion beyond the approved Floor Plan shall void the Use Permit and require new Use Permit application and approval.

4. **The Use Permit shall be in effect for one year from the date of Council approval. The sale of alcohol beyond that date will require re-application and approval of a new Use Permit.**

I. PPT04-0010 DOBSON PLACE II

APPROVED, a Preliminary Plat for a single-family subdivision located at the northwest corner of Galveston Street and Gilbert 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.

MOVED BY VICE CHAIRMAN FLANDERS, seconded by **COMMISSIONER HEUMANN, TO APPROVE THE CONSENT AGENDA**, with the additional stipulations as read into the record. **MOTION WAS APPROVED (6-0).**

6. ACTION ITEM

D. DVR04-0011 CITY OF CHANDLER INITIATIVE – NORTHEAST CORNER OF ARIZONA AVENUE AND BUFFALO STREET

BOB WEWORSKI, PRINCIPAL PLANNER, stated that this is a request for rezoning from City Center District, or CCD, to Planned Area Development for the development of a high-turnover, fast food restaurant with a drive through and pick up window as part of the restaurant. This is the Jack-in-the Box site, which is located directly south of the existing Jack-in-the-Box on Arizona Avenue.

Mr. Weworski explained that this process of seeking conceptual rezoning approval is the result of a settlement agreement between the City of Chandler and Jack-in-the-Box. He stated that it is hoped that shortly after receiving conceptual zoning approval that a Preliminary Development Plan will follow for site development and building architecture, layout, etc. This site is located within the context of the downtown area and also the Site 7 Redevelopment area. This site is along the west side of the Site 7 Redevelopment area, which envisions commercial development along Arizona Avenue and Chandler Boulevard and also a potential for restaurants, commercial development, office, and residential elements.

Mr. Weworski went on to say that Commission is being asked to recommend approval for conceptual zoning of the site. This is a cooperative effort that Jack-in-the Box and Benton-Robb Corporation will develop the remaining portion of this area along Chandler Boulevard and Arizona Avenue down to Buffalo Street. Part of this Site 7 is part of the redevelopment element under the General Plan. The redevelopment element divides this downtown area into districts. The district in this case, District 1, envisions this area to allow for retail shops, restaurants, entertainment areas, as well as residential elements. Recently a redevelopment plan was approved for this area, which is Site 7, a six-block area of downtown, which allows for commercial retail, office, and residential components. A townhouse project has already been approved, and this is the next step in that process, which fits in the vision of providing this kind of use. It is located in the CCD designation, which is the downtown City Center District. The CCD is very specific in its allowable uses. Uses such as fast food restaurants do not fit into the category; hence, the request for rezoning to PAD zoning. Staff believes there will be a lot of opportunities to tie this into the downtown context through the PDP process, and again the requirement is to get a fast food restaurant with a drive-thru lane and access to and from Arizona Avenue.

Staff tried to hold a neighborhood meeting. No one attended; however, the downtown coordinator has been providing information to the downtown merchants and the community partnership. Staff has not received any complaints or any requests about the particular project. Staff has provided rezoning stipulations and recommends approval.

CHAIRMAN RYAN stated that he had a concern with the access from Jack-in-the Box onto Arizona Avenue. Mr. Weworski explained that part of the settlement agreement stated that there would be access to and from Arizona Avenue on this site. Staff believes there may be opportunities along Arizona Avenue that could occur; however, there needs to be the proper safety and access that would include Buffalo Street as well. Chairman Ryan stated that he was okay with the use and the drive-thru, but he felt it boiled down to a safety issue in trying to get the cars in and out of a high turnover use on a corner.

COMMISSIONER HEUMANN commented that he is fine with the zoning for this site, but when the Preliminary Development Plan comes back before Commission, he wanted to see a bus bay included as part of the PDP. He stated that he has some concerns with the drive-thru orientation and wanted to see the drive-thru incorporated into the overall project so it doesn't look like a true drive-thru. Also, he wanted the dining/eating area incorporated as a flow through to the rest of the project. He desires that this doesn't look like just another Jack-in-the-Box and feels this is an opportunity for Jack-in-the-Box to be a real show place.

CHAIRMAN RYAN added that, in order to add continuity to the downtown with certain architectural styles, Jack-in-the-Box ought to blend with what had already been approved for the residential buildings to the east of this site.

COMMISSIONER IRBY stated that he did not have a problem with the use at this location; however, he wanted to see enough time given to the project in order to get a good product, as he felt that some creative things could happen with the site given enough time. He asked Mr. Weworski if there was a specific deadline as agreed upon within the settlement.

Mr. Weworski stated that there are some timing conditions that require the PDP coming forward within 120 days of the townhouse plat being recorded. He stated this would come back very soon as Jack-in-the-Box and Benton-Robb are anxious to look at the site and get it going. He commented that Staff has already seen some planning studies for the remaining part of this area that extends to Chandler Boulevard and east to Washington Street. There is continuity with the adjacent parcels around this site and the context within downtown to get the downtown setting to be appropriate.

COMMISSIONER IRBY stated that he was concerned with the short time frame to work out any issues and suggested it would be a good idea to meet in a design review meeting prior to work with the applicant to offer design concepts. COMMISSIONER HEUMANN commented that he felt it was a good idea to give them some lead-time due to the short time frame. He would rather not have a design review meeting at the back end.

CHAIRMAN RYAN asked counsel if it was legal to make that within the motion. Assistant City Attorney Glenn Brockman stated he would request Commission not do that. He stated that the trigger for all the time frames begin with the platting and plat recording for the Benton-Robb parcel, which is a ways out. Also, Mr. Brockman said that he would need to check to make sure that what is being proposed, which is going to design review prior to going before Commission for public presentation, if that was doable. COMMISSIONER IRBY clarified that he wasn't suggesting a stipulation requiring the applicant go to design review, it was only a suggestion that the City talk to the applicant and suggest they sit down with the Board. He felt it was better to be proactive versus reactive.

CHAIRMAN RYAN recommended that as long as there was not a quorum, the commissioners would be able to work one-on-one with the applicant, or any number, just as long as there was not a quorum of the commissioners present. He commented he felt it needed to be done informally, not in a design review setting.

VICE CHAIRMAN FLANDERS stated that he would like to see some creative solutions as to how this building could relate to the rest of the downtown. He commented that he had no problem with a multi-story Jack-in-the-Box and would like to see the parking placed at the back of the building to the east with the building at the corner. He wants to see creativity as far as the drive-thru goes.

There were no other comments.

MOVED BY COMMISSIONER HEUMANN, SECONDED BY COMMISSIONER ANDERSON, TO APPROVE DVR04-0011 CITY OF CHANDLER INITIATIVE-NORTHEAST CORNER OF ARIZONA AVENUE AND BUFFALO STREET, SUBJECT TO STIPULATIONS 1-7. MOTION WAS APPROVED (6-0).

G. UP04-0003 THE ROCK YARD, INC.

ASHLEY BAILEY, PLANNER I, stated that this Use Permit request is to utilize an existing modular building within an I-1 zoning district located south of the southeast corner of McClintock Drive and Chandler Boulevard. The Rock Yard is a wholesale construction company selling tile, stone, and façade materials. The application comes forward in response to a notice of zoning violation and if approved, would bring the site to conformance with all applicable codes. The building is located north of the main building along the mid-point of the site and is used as an office from 6 a.m. to 4 p.m. Monday through Friday. The building is on a paved area within an outdoor storage area and is screened by 6 ft. masonry screen walls, as well as a large canopy limiting the site to the building. Staff recommends approval with the addition of stipulation no. 2 stating, "*This Use Permit shall be extended for a period of two years. The two-year time period shall begin from the date of City Council approval. This Use Permit is non-renewable.*"

COMMISSIONER HEUMANN stated during Study Session there were comments that the modular building would be non-renewable. He also stated that he had concerns with the visibility along a major arterial street as it pertains to the block that is being stacked above the walls. He felt that enhanced landscaping should be provided to screen the sight of the blocks.

In response to a question from Chairman Ryan, Mr. Kurtz stated that the canopies were done as part of the original application when this site was RV storage. The canopies served as shade structures for the RVs that were parked underneath them. He commented that the canopies were approved through the permitting process as it was an allowed by right use.

Mr. Kurtz went on to explain that the modular building was brought onto the site as a part of the RV storage or as a part of the proposed use that was going to be selling RVs. What happened was that Council denied the use for RV sales. The previous owner sold it to the current owner. Things happened on the site during those couple of years while various processes were going on. In fact, there were three modular buildings at one time brought onto the site. It's back down to just this one now. COMMISSIONER ANDERSON asked if it was the use that was denied or if it was the modular building that had been denied. Mr. Kurtz stated that the modular building was never a part of any approvals. It was on the site when Council denied the RV sales use.

In response to a question from CHAIRMAN RYAN, Ms. Bailey stated the zoning violation was just to bring the modular building into conformance because a Use Permit is needed for that in an I-1 zoning district. She went on to say that, from what she had observed, the entire site is code compliant with the exception of the modular building.

CHAIRMAN RYAN asked the applicant to come forward.

STEVEN ROGERS, residing in Payson, Arizona. He stated that he is also the property owner as well as the managing partner of the business that is operating out of the facility. He explained that they also own Lot 93 Stellar Airpark, the adjacent vacant property directly west of this property. Their intention is to erect a design build 14,000 square foot office/warehouse facility within the next 18 to 24 months. They bought the property under the assumption, after doing their due diligence, that the modular office was inclusive of the property. They became aware that the modular building was in violation after they were already into a $1.2 million contract and had released $100,000 to the seller. This was not brought to their attention until 30 days after executing the contract and only at the time that they had filed for a business license. He stated that they did their due diligence with the City of Chandler and the modular was not an issue and was never brought to their attention. Mr. Rogers stated that they want to work with the City and that they

understand that the modular is not the ultimate building that they want to operate out of. He restated that they need 24 months to recoup some of the $1.2 million that he personally had invested in the property. It is their intention to remove the modular and move into a new structure in the adjacent lot. In response to Commissioner Heumann's concerns regarding the material that is there, Mr. Rogers stated that he had checked with the City and they are within code. When they get to the building of their new building, if the City would like them to step forward and throw some additional dollars and additional landscaping, they would be happy to entertain something like that. He went on to say that they had no idea that the structure was an illegal structure. Should they have known, they would have addressed this with the seller.

Mr. Rogers also went on to say that there was another owner between the RV storage owner and himself who also represented the property and was not aware that the modular was an illegal structure. He stated that they have installed expensive computer and phone improvements in their primary building as well as the modular. Mr. Rogers again stated that it is their intentions to build a new building. They are in negotiations with a number of design build companies and would need 24 months to meet that goal.

COMMISSIONER HEUMANN asked the applicant if he would be willing to commit to additional landscaping to buffer the storage along McClintock Drive if Commission were willing to do the 24-month stipulation. Mr. Rogers said he would be willing to commit to that. He went on to say that 120 days ago they had contributed additional landscaping with the McClintock Drive widening project. The City had not asked them to do that. They realized they were responsible for the irrigation of that corridor during the expansion, while they were still renters, but they took it on themselves to add foliage to dress it up. He commented that he's not sure whose responsibility it is, but they are paying a private landscaper to maintain City property because they are concerned about the investment they made as a private company into a city-owned area that's being overtaken by weeds.

COMMISSIONER HEUMANN asked whose responsibility it would be to maintain this piece of property. Mr. Kurtz stated that it would be the property owner's responsibility for maintaining.

Responding to a question from CHAIRMAN RYAN, Mr. Rogers explained that he has not removed the materials above the perimeter wall. He went on to explain that this subject became an issue some months back and they had addressed it with the City at that time. They were told that they were in compliance with the intended use of that industrial park. They are a materials supply yard and stock material 3-4 high. Mr. Rogers said that they do not stack material any higher than what that site was originally intended to store, i.e. a recreational vehicle. None of the material in the yard has a higher profile than when that site was used to store recreational vehicles.

CHAIRMAN RYAN asked if it is permissible to stack above the wall height in an I-1 zoning district. Mr. Kurtz replied that it is permissible.

COMMISSIONER HEUMANN asked if the RV facility was ever approved. Mr. Kurtz stated that the facility was allowed by right and had operated for a while. What was disapproved by Council was turning it into an RV sales, versus RV storage.

VICE CHAIRMAN FLANDERS suggested that perhaps the wall could be raised at the time the new building is constructed.

Mr. Rogers stated that they had done what they were supposed to do by checking with the City and at no time had the modular issue been mentioned. He said that again he's asking for the 24 months

because it's strictly economics. They need to recoup some money before they can and come to the City of Chandler with a design and build a building.

COMMISSIONER HEUMANN said he did not have a problem with a two-year time stipulation as long as the applicant either raises the wall or add additional landscaping to buffer McClintock Drive.

Responding to COMMISSIONER IRBY, Mr. Kurtz stated that he did not know if the landscaping along McClintock Drive meets the landscape requirements; however, it did years ago when it was installed. COMMISSIONER IRBY suggested a stipulation be added that within the two-year period the owner agrees to upgrade the landscaping along McClintock to the current zoning requirements for that type of use. He said that he's not keen in raising walls, but trees in the right place and gaps from time to time, makes for more interest. Mr. Kurtz said that he recommended it be stipulated as a part of this if he wants Staff to carry it out. COMMISSIONER IRBY asked the applicant if that sounded reasonable.

Mr. Rogers stated that he had no problem. He did point out, though, that during the widening of McClintock that there were 6, twenty-four inch trees planted along the corridor. He said he felt they were not being unreasonable with the City and wants to be a good neighbor. Had they known about the modular they would have taken care of it.

COMMISSIONER HEUMANN commented that the modular building was in question at the time of the RV Park.

MOVED BY COMMISSIONER HEUMANN, SECONDED BY COMMISSIONER IRBY TO APPROVE UP04-0003 THE ROCK YARD, INC, SUBJECT TO STIPULATION NO. 2: THE USE PERMIT SHALL BE EXTENDED FOR A PERIOD OF TWO YEARS, NON-RENEWABLE; STIPULATION NO 3: THE APPLICANT WILL WORK WITH STAFF TO REVIEW THE LANDSCAPING AND ADD ADDITIONAL TREES AS NECESSARY TO SCREEN THE OUTSIDE STORAGE AREA WITHIN THE STANDARDS. WHEN THE VOTE WAS TAKEN, THE MOTION PASSED BY THOSE PRESENT (6-0).

7. DIRECTOR'S REPORT - No report.

8. CHAIRMAN'S ANNOUNCEMENT

The next regular meeting was set for May 19, 2004, at 5:30 P.M. in the Council Chambers.

9. ADJOURNMENT

The meeting was adjourned at 6:13 P.M.

_____
Phil Ryan, Chairman

_____
Douglas A. Ballard, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, May 19, 2004, held in the City Council Chambers, 22 S. Delaware Street.

1. Chairman Ryan called the meeting to order at 5:33 P.M.

2. Pledge of Allegiance lead by Commissioner Irby.

3. The following Commissioners answered Roll Call:

   Chairman Phil Ryan Commissioner Mark Irby
   Vice Chairman Michael Flanders
   Commissioner Janette Polvani
   Commissioner Rick Heumann

   Absent & Excused: Commissioner Brett Anderson, Commissioner Shiela Schmidt

   Also Present:

   Mr. Jeff Kurtz, Current Planning Manager
   Mr. Bob Weworski, Principal Planner
   Ms. Ashley Bailey, Planner
   Mr. Kevin Mayo, Planner
   Ms. Jodie Novak, Planner
   Mr. Thomas Ritz, Planner
   Mr. Glenn Brockman, Assistant City Attorney
   Ms. Linda Porter, Secretary

4. APPROVAL OF MINUTES

MOVED BY VICE CHAIRMAN FLANDERS, seconded by COMMISSIONER HEUMANN to approve the minutes of the May 5, 2004 meeting. MOTION WAS APPROVED.

5. CONSENT AGENDA

CHAIRMAN RYAN stated that Items A, B, C, and E were on the Consent Agenda. He further stated for the record that he and VICE CHAIRMAN FLANDERS would be abstaining from voting on Item A, DVR04-0012 The Village At Carino Commons, as they had participated in consultation for that project. In addition to the following conditions, additional conditions had been added to Item E, UP04-0012 El Alamo Super Carniceria, during Study Session prior to the Commission meeting. MR. JEFF KURTZ, CURRENT PLANNING MANAGER, read into record the following additional stipulations to Item E:

4 ***The Use Permit shall remain in effect for one year from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.***
5. ***Applicant shall work with Staff to upgrade the landscaping along Chandler Boulevard.***

A. DVR04-0012 THE VILLAGE AT CARINO COMMONS

CONTINUED TO JUNE 2, 2004, a request for zoning amendment from PAD Multifamily to PAD Commercial with C-2 and gas station uses to increase the existing PAD Commercial district by approximately 0.89 acres and add gasoline service station uses as a permitted use within a shopping center and decrease the existing PAD Multifamily by approximately 0.89 acres. This zoning amendment would allow the development of 115-unit residential condominium project with two-story buildings on an approximate 10.8-acre parcel and a neighborhood shopping center with a gasoline service station totaling approximately 74,615 square feet on 13.48 acres. The property is located at the northwest corner of Arizona Avenue and Queen Creek Road.

B. PDP04-0008 CHANDLER CHRISTIAN CHURCH

APROVED, a request for Preliminary Development Plan (PDP) approval for site layout and building architecture for a maintenance building and volleyball court located on a portion of the property at 1825 S. Alma School Road.

1. Compliance with original stipulations adopted by the City Council as Ordinance No. 2712, in case PL96-185 CHANDLER CHRISTIAN CHURCH.
2. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "CHANDLER CHRISTIAN CHURCH - MAINTENANCE BUILDING" kept on file in the City of Chandler Current Planning Division, in file number PDP04-0008, except as modified by condition herein.
3. The landscaping in all open spaces and rights-of-way shall be maintained by the adjacent property owner or property owners association.
4. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls.

C. UP04-0015 NICK & WILLY'S PIZZA

APPROVED, a request for Use Permit approval to sell liquor (Series 7 Beer and Wine Bar License) at a new restaurant within the Copper Point shopping center. The property is located at 4050 West Ray Road, Suite 14, northwest corner of Ray Road and McClintock Drive.

1. Expansion, modification, or relocation beyond the approved exhibits (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 7 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 store locations.
4. Any substantial change in the floor plan to include such items as, but not limited to, additional bar serving area or the addition of entertainment related uses shall require reapplication and approval of the Use Permit.

E. UP04-0012 EL ALAMO SUPER CARNICERIA

APPROVED, a request or Use Permit approval to sell liquor (Series 10 Beer and Wine License) at a grocery store at 773 East Chandler Boulevard.

1. The Use Permit is for a Series 10 liquor license only, and any change in type of license shall require reapplication and new Use Permit approval.
2. Expansion beyond the approved Floor Plan shall void the Use Permit and require new Use Permit application and approval.
3. The Use Permit is non-transferable to any other store location.

4. **The Use Permit shall remain in effect for one year from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.**
5. **Applicant shall work with Staff to upgrade the landscaping along Chandler Boulevard.**

MOTION BY COMMISSIONER HEUMANN, seconded by **COMMISSIONER IRBY, TO APPROVE THE CONSENT AGENDA**, with the additional stipulations as read into the record. **MOTION WAS APPROVED (5-0).**

CHAIRMAN RYAN restated that, for the record,

6. ACTION ITEM

D. UP04-0008 NEW HORIZONS YOUTH HOMES, INC.

ASHLEY BAILEY, PLANNER I stated that New Horizons Youth Home is requesting Use Permit approval for one year to operate a group home for up to seven male children within a home located in a single family residential neighborhood. The home is located north of the northeast corner of Ray Road and Evergreen Street at 795 W. Park Avenue. The home and grounds are in excellent condition and have undergone multiple renovation projects. The home has been operating with no more than five permanent residents by right as a juvenile group home for approximately two years. In 2002 a Use Permit was filed and subsequently withdrawn by a previous owner. New Horizons has since acquired the home in September 2003 and is required to obtain a Use Permit before expanding. The home is managed by a rotating staff that reports to this location. There is one adult staff member awake at all times. During the week there is another employee that travels between homes, and a clinical specialist is at the home twice a week. This is the third home in the Valley for the applicant, and the second in Chandler. Staff received three phone calls from residents referencing this Use Permit. There is also a petition from neighbors in support of this Use Permit. One resident suggested the children in this home become more active in the neighborhood. Two residents called in opposition due to the close proximity to a pre-school making it unsafe. The Chandler Police Department has stated they have no concerns; in addition, they stated there were no calls to the home since the applicant acquired the home in September. Staff recommended approval of the Use Permit.

COMMISSIONER HEUMANN complimented Mr. Granado on his other projects in Chandler. He stated that the reason he pulled the case (from the Consent Agenda) wasn't because he had any doubt as to the capabilities of the applicant running the business. Instead, Commissioner Heumann said that as the applicant expands and adds more locations, he wanted to make sure down the road that the same management style continues. He went on to say that since Mr. Granado took over this business in September, there hadn't been any calls for service. Commissioner Heumann stated that he hopes that Mr. Granado continues to offer to the youth of our City the same high quality standards and if he continues to open up more and more places, that the applicant be aware of this. Commissioner Heumann stated that he had no objections to the application and that Mr. Granado had done an excellent job on the other projects. He went on to commend Mr. Granado, but at the same time he wanted that caveat that when someone expands, difficulties can happen.

TOM GRANADO, 1601 E. WESSON DRIVE, CHANDLER, stated that he works with kids because he really wants to help them. There are a lot of kids that need that help. He said that what Mr. Heumann had just stated was pretty much his motto. Mr. Granado commented that he's out there to do the right thing all the time. When he took over the Park home in September, he added extra experienced staff so that his standards wouldn't drop. He stated that he wanted everyone to understand what his philosophy is and that they do take it to heart.

MOTION BY COMMISSIONER HEUMANN, seconded by **VICE CHAIRMAN FLANDERS, TO APPROVE UP04-0008 NEW HORIZONS YOUTH HOMES, INC., MOTION WAS APPROVED (5-0).**

F. UP04-0016 TARGET

ASHLEY BAILEY, PLANNER I, stated that this is a Use Permit request for a Series 10 Beer and Wine License at Target located at the northwest corner of Alma School Road and Queen Creek at 2880 S. Alma School Road. Ms. Bailey stated that Target has occupied the building since July 2000 and is approximately 120,000 square feet. Target is open Monday through Saturday from 8 a.m. to 10 p.m., Sunday from 8 a.m. to 9 p.m., and holidays from 7 a.m. to 11 p.m., with some extended hours around Thanksgiving through New Year's Eve. Target employs approximately 70 people at this location. The alcohol display areas will be located towards the cashier checkout areas as well as closer to where food items are sold. Currently, Target sells alcohol at approximately 250 stores nationwide, including the Phoenix metropolitan area. This will be the first Target store to sell alcohol in Chandler. Staff recommended approval of the Use Permit.

NICHOLAS GUTTILLA, 4150 W. NORTHERN, PHOENIX, stated that he was the attorney for the applicant. Mr. Guttilla stated that Target has over 250 liquor licenses throughout the United States; nine licenses have been issued in Arizona since the beginning of this year, and five have recently been approved throughout the Valley and Tucson. This is the sixth Use Permit, and currently, six more are pending. He stated that the concept of placing wine (although it's wine that Target requests, the Series 10 license is issued as Beer and Wine) was mainly a decision made in the third quarter of 2003 due to the success in California, Texas, and Florida.

Mr. Guttilla explained that Arizona law allows a checker to be 16 if supervised by a 19-year old. It is Target's corporate policy not to allow anyone under 19 to check out spirituous liquor. Checkers that are 19 and older are allowed to check out spirituous liquor. He went on to explain the software program that is utilized by Target at the checkout stands to monitor the sales of liquor through the use of employee ID numbers. There is a supervisor at the front of the store at all times to make sure the cashiers are doing the proper thing. Also, there are cameras at the registers and in the aisles. Mr. Guttilla stated that the plan is to sell wine only at this time. The plan is to have the wine on one side of an aisle and also on an endcap (24 ft.). The same plan is used throughout all the Target stores. The price of the wine will range from $6 to $30, averaging $12-18. They do sell some box wines. Everyone in the store is trained every two years in liquor sales. There has not been a liquor violation since December 2002 from the 250 licenses that have been issued.

COMMISSIONER IRBY stated that he had two concerns; one had been answered as to the age of clerks selling the alcohol. His other concern was the display locations for the wine. Commissioner Irby stated that he didn't like to see stacks of liquor located by the cashiers. Mr. Guttilla stated that the floorplan that is filed with the liquor department will encompass all possible areas of sale because once they file, they're not allowed to vary from that without prior approval, which then

requires filing with the liquor department, submission to the City, obtaining a City stamp, and then back to the liquor department. He stated that they encompass areas that they believe that some point in time they may want to place a display.

COMMISSIONER IRBY restated that he preferred that the liquor displays not be located at the cashier's and wanted a stipulation to that effect. Mr. Guttilla stated that would be okay.

COMMISSIONER HEUMANN commented that he disagreed with Commissioner Irby. He stated that the Target Corporation is one of the more exemplary corporations in the United States and has a full understanding of neighborhood concerns. He felt he didn't have a problem with bottles of wine on an endcap, as the endcaps are not that large. He felt having the liquor at the front is safer than hidden at the back of the store.

In response to a question from **VICE CHAIRMAN FLANDERS** regarding security at the registers, Mr. Guttilla stated that there are cameras that are on the checkers and on the aisles, in addition to a manager that is up front at all times walking back and forth through the checkers.

KRISTEN DUNTZ, 1183 W. BLUEBIRD DRIVE, CHANDLER, stated that the software system not only has a permanent ID for each team member, but every six to eight weeks the system prompts the employee to enter a new password. This password changes within every two months with each team member. The ID number is a permanent number.

CHAIRMAN RYAN commented that it didn't matter one way or the other to him, but he did feel it was more tasteful to not have the liquor exposed at the cash register.

MOTION BY COMMISSIONER IRBY, SECONDED BY CHAIRMAN RYAN, TO APPROVE UP04-0016 TARGET, SUBJECT TO A STIPULATION THAT LIQUOR DISPLAYS NOT TO BE LOCATED AT THE CASHIER WORK STATIONS.

COMMISSIONER HEUMANN REQUESTED A DISCUSSION ON THE MOTION.

COMMISSIONER HEUMANN said he felt that the stipulation that was made as a part of the motion was unfair and that the applicant was being overly scrutinized, especially considering the software program that Target utilizes to protect their younger employees. He pointed out that by scrutinizing Target to the point of indicating where they can or cannot place their alcohol displays would mean the same would need to be done whenever a new grocery store comes before Commission, and he thought Commission really didn't want to go there. Commissioner Heumann reiterated that the Target Corporation is a good corporate citizen and therefore, would not support the motion as stated.

CHAIRMAN RYAN commented that he didn't look at Target the same way he does a grocery store. Target established themselves as selling certain products, but you wouldn't think twice about a beer and wine license in a grocery store. He still thought that the stipulation was a good thing; however, he did not really care one way or the other and suggested Commissioner Heumann amend the motion if he so wished. Commissioner Heumann stated he would like to amend the previous motion.

MOTION BY COMMISSIONER HEUMANN, SECONDED BY VICE CHAIRMAN FLANDERS, TO AMEND THE ORIGINAL MOTION TO REMOVE THE STIPULATION. MOTION APPROVED 5-0.

VICE CHAIRMAN FLANDERS agreed with Commissioner Irby; however, he was also against telling a retailer the location of where he has to sell or position his merchandise.

The floor was opened up for further discussion.

COMMISSIONER IRBY commented that he did not recall ever seeing any grocery store that had come through that so clearly identified where product was going to be handled. Ms. Bailey stated that all of the Use Permits for alcohol, as long as its Series 9 or Series 10, do identify which isles will be having alcohol sales on, as well as display areas. She stated that she typically includes that information in her memos to Commission.

COMMISSIONER IRBY said that he was rather surprised that Target would have alcohol displays on the endcaps, as he felt Target had more class than that. He stated that he would go ahead and support eliminating the stipulation. He agreed that Target is a good corporate citizen.

A VOTE WAS TAKEN ON THE ORIGINAL MOTION AS AMENDED. THE ORIGINAL MOTION WAS APPROVED UNANIMOUSLY.

G. PDP01-0036/PPT03-0010 SUN GROVES PARCEL 3 – KB HOMES

KEVIN MAYO, PLANNER I, stated that this is a request for Preliminary Development Plan approval for subdivision layout and housing product on a 170-lot subdivision on approximately 30 acres of Parcel 3 of the Sun Groves master plan. The master plan received its original zoning and PDP approval for subdivision design and lot layout in March 1999. The master plan identified Parcel 3 as the higher density, single-family parcel. The conceptual zoning permitted the ability to achieve up to 191 units, approximately 6.7 units to the acre, with an average lot size of 4,000 square feet. The proposal requests approval of 170 lots, approximately 5.9 units to the acre with a standard lot size of 4,500 square feet of 50'x90' standard lot, ranging from 4,500 sq. ft. to 10,500 sq. ft. The average lot size is just under 5,000 sq. ft. The homes proposed are by KB Homes. There are two, single story homes and three, two-story homes ranging in size from 1,160 sq. ft. to just under 2,500 sq. ft. The product includes a variety of elevations, roof types, and color choices to help distinguish the homes. During the Study Session, discussions occurred regarding the "box on box" feel of the two-story homes and trying to address that and limit the potential canyon effect that could happen down the street. Staff is proposing the addition of five stipulations to help address that.

10. ***For lots 17 through 33, 38, and 39, no less than 50% of the homes shall be one-story.***
11. ***The separation between two-story homes shall be a minimum of 20-feet.***
12. ***There shall be no more than two (2) side-by-side two-story homes throughout the development.***
13. ***The front-yard setback shall stagger a minimum of five (5) feet lot-to-lot.***
14. ***The applicant shall work with Staff to incorporate additional architectural details on the two-story floor plans, including items such as but not limited to pop-outs, additional windows, ornamental details, and or roof plane changes. If in Staff's opinion these additional details are not incorporated sufficiently, the application shall return to Commission and Council.***

Staff is recommending approval of this proposal. It is consistent with the rest of the Sun Groves development through its landscaping and ties into it very well through the inclusion of pedestrian trails and the trail links. In addition, the overall density is lower than conceptually was allowed on the original zoning. Staff recommends approval.

MR. RALPH PEW, 10 WEST MAIN STREET, MESA, AZ, stated that he represents Mr. Dale Willis. He further stated that they had read the additional stipulations, had heard the Study Session, understood the concerns, listened to the conditions, and agreed with those conditions. He also commented that hearing Commissioner Heumann state that something was being overly scrutinized had completely and totally made his day.

In response to a question raised by Commissioner Irby, Mr. Mayo explained that the housing product comes in for a standard plan approval. All the elevations get approved as part of a standard plan package. Then when they want to pull a permit for a specific lot, that lot is tied to a specific standard plan, and the setbacks and elevations are then verified. Mr. Mayo explained the system he uses for verifying that no two elevations or setbacks are next to each other.

MOTION BY VICE CHAIRMAN FLANDERS, SECONDED BY COMMISSIONER IRBY, TO APPROVE PDP01-0036 SUN GROVES PARCEL 3, SUBJECT TO THE ADDITIONAL CONDITIONS AS READ BY STAFF. MOTION WAS APPROVED 5-0.

MOTION BY VICE CHAIRMAN FLANDERS, SECONDED BY COMMISSIONER IRBY, TO APPROVE PPT03-0010 SUN GROVES PARCEL 3. MOTION WAS APPROVED 5-0.

7. DIRECTOR'S REPORT - No report.

8. CHAIRMAN'S ANNOUNCEMENT

CHAIRMAN RYAN asked the Clerk to poll the Commissioners as to their summer vacation schedules. The next regular meeting was set for June 2, 2004, at 5:30 P.M. in the Council Chambers.

9. ADJOURNMENT

The meeting was adjourned at 6:17 P.M.

_____
Phil Ryan, Chairman

_____
Douglas A. Ballard, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, June 2, 2004, held in the City Council Chambers, 22 S. Delaware Street.

1. Vice Chairman Flanders called the meeting to order at 5:32 P.M.

2. Pledge of Allegiance lead by Commissioner Anderson.

3. The following Commissioners answered Roll Call:

   Vice Chairman Michael Flanders
   Commissioner Jeanette Polvani
   Commissioner Rick Heumann
   Commissioner Mark Irby
   Commissioner Brett Anderson

   Absent & Excused: Chairman Phil Ryan. (Vice Chairman Flanders announced that Commissioner Schmidt resigned from the Planning and Zoning Commission.)

   Also Present:

   Mr. JEFF KURTZ, Current Planning Manager
   Mr. Bob Weworski, Principal Planner
   Ms. Ashley Bailey, Planner
   Mr. Glenn Brockman, Assistant City Attorney
   Ms. Linda Porter, Secretary

4. <u>APPROVAL OF MINUTES</u>

COMMISSIONER HEUMANN requested that the May 19th minutes be reviewed and amended to include additional remarks he made under Agenda Item D. He said that his comments were more expanded as far as his concerns.

MOVED BY COMMISSIONER HEUMANN, SECONDED BY COMMISSIONER IRBY to approve the minutes of the May 19, 2004 meeting as amended. MOTION WAS APPROVED UNANIMOUSLY by those present (5 to 0).

5. **<u>ACTION ITEMS</u>**

VICE CHAIRMAN FLANDERS advised that the members of the Commission and Staff met prior to this meeting at a Study Session to discuss each of the items on the agenda and, as a result of that discussion, all of the agenda items are now on the Action Agenda. He said that anyone wishing to speak for or against the items on the agenda, they should fill out a speaker card and turn it in to Linda Porter.

VICE CHAIRMAN FLANDERS stated that he had a potential conflict of interest in connection with Agenda Item A and for that reason he would refrain from discussing and/or voting on that issue. He turned the meeting over to Commissioner Polvani.

A. DVR04-0012 THE VILLAGE AT CARINO COMMONS

Request zoning amendment from PAD Multifamily to PAD Commercial with C-2 and gas station uses to increase the existing PAD Commercial district by approximately 0.89 acres, add gasoline service station uses as a permitted use within a shopping center and decrease the existing PAD multi-family by approximately 0.89 acres. This zoning amendment would allow the development of a 115-unit residential condominium project with two-story buildings on an approximate 10.8-acre parcel and a neighborhood shopping center with a gasoline service station totaling approximately 74,615 square feet on 13.48 acres. The property is located at the northwest corner of Arizona Avenue and Queen Creek Road.

Current Planning Manager JEFF KURTZ addressed the Commission relative to this agenda item and stated that the rezoning request has two items related to it, the first one has to do with modifying the existing zoning district lines to change the commercial and multi-family district (expand the commercial district by 0.89 acres and decrease the amount of multi-family acreage by that same amount) and the second one has to do with amending the PAD zoning for C-2 uses to allow a gas station as a permitted use, which is not otherwise allowed under a C-2 zoning category.

MR. KURTZ provided brief background information relative to this parcel and noted that the property was zoned several years ago as part of the Carino Estates master plan that encompassed approximately 320 acres of property. The master plan included single-family, multi-family residential and office uses, together with a portion of a City park. He stated that the property currently under discussion involves a planned multi-family and commercial parcel at the major arterial intersection of Queen Creek Road and Arizona Avenue. He explained that the commercial parcel was zoned as part of Carino Estates for a neighborhood shopping center with typical C-2 uses. He added that the multi-family portion of the parcel was considered for a density level of 18 dwelling units per acre, subject to review, at the time of the Preliminary Development Plan for the actual final density level of the project.

MR. KURTZ pointed out that the application before the Commission includes a Preliminary Development Plan for a condominium project and a neighborhood shopping center with a gas station. He referred to various maps contained in the members' packets and said that the amendment is to adjust the zoning district line by increasing the commercial and decreasing the multi-family. He reported that the overall acreage associated with the request is a little bit under an acre and said that the purpose of that modification is to allow a greater integration of the two land uses between each other and to take advantage of planned median cuts and driveway access points along Queen Creek Road. He commented on the fact that the proposed change in the zoning district line allows a greater interface between the two projects. He noted that the other part of the project has to do with a gas station and said the PAD for Carino Estates allowed a C-2 zoning category. Unless otherwise specified as a part of the PAD zoning or within a C-3 zoning district, gas stations are not allowed. He added that the application before the members is to amend the commercial zoning to allow gas stations.

MR. KURTZ also discussed the condominium project and referred to the plans provided to the Commissioners. He stated that the overall density level of the project is 11.9 units per acre, while the commercial center includes 74,615 square feet of retail space. He reported that there will be a total of 115 units within 16 individual buildings with 2- and 3-bedroom homes with garages. He added that the gated project with private roads would include a community pool, ramada and barbeque area. He pointed out the landscaping and open space through the center of the project that has a pedestrian access-way that leads to the commercial center. He further stated that at the commercial center, the interface occurs with a common plaza and said that the plaza connects to a

pedestrian gate. He added that the driveway access points are combined to the point where the projects are integrated and both projects can be easily accessed.

MR. KURTZ said that at the commercial center, they are proposing a neighborhood shopping center and stated the opinion that the design is extraordinary. He noted that they have included aspects of the site plan that are not usually found in typical shopping centers, such as the integration between the projects. He informed the Commissioners that single-family homes are located along the north side and their backyards are orientated towards the parcel. He pointed out that the project was specifically designed to interface with those existing single-family homes and said for that reason, the typical driveway that would run all along the back of the project has been eliminated. He said that from an overall site development standpoint, the architecture is quite rich and well designed with integrated colors, materials and building forms. He emphasized that the proposal is a relatively low intensity shopping center and discussed the overall scale of the development. He reported that the proposed site coverage is 13% and noted that shopping centers typically fall in the 18 to 22% range. He added that this is truly a village type commercial center that is inter-related with the adjacent multi-family condominiums.

MR. KURTZ noted that the project also contains water features and said that 99% of the pads are oriented in towards the landscaped setting. He stated the opinion that the proposal is in line with the City's design standards for commercial shopping centers in Chandler. He also discussed the proposed gas station and stated that the parcel is located at the intersection of two arterial roadways and is located on Arizona Avenue, which is identified in the City's General Plan as a commercial node. He said that this is the point in the City's planning where gas stations are expected to be found as part of shopping centers. He added that from a site design standpoint, Staff would be the first ones to recognize deficiencies and object to the proposal but emphasized that that is not the case at this time, it would be located in an appropriate location for a gas station and does not present any unusual externalities.

MR. KURTZ further stated that two neighborhood meetings were held and referred to copies of notes that were taken at the meetings and distributed to all of the residents who attended those neighborhood meetings. He said that several issues and items were raised during the process and noted that at the second meeting, the applicant presented a development plan that attempted to respond to those comments and concerns. He reported that one concern that has not been resolved is the gas station and referred to a petition that was received in opposition to the gas station. He said that residents are in attendance and will present their views on the proposal.

MR. KURTZ stated that Staff recommends approval of the project subject to the following stipulations, including an additional Stipulation, #12, with regard to the design of the gas station fuel canopy, in an effort to further enhance the project:

1. Right-of-way dedications to achieve full half widths for Queen Creek Road and Arizona Avenue, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.

2. Under-grounding of all overhead electric (less than 69 kv), communication, and television lines and any open irrigation ditches or canals located on the site or within adjacent right-of-ways and/or easements. Any 69 kv or larger electric lines that must stay overhead shall be located in accordance with the City's adopted design and engineering standards. The aboveground utility poles, boxes, cabinets or similar appurtenances shall be located outside of the ultimate right-of-way and within a specific utility easement.

3. Future median openings shall be located and designed in compliance with City adopted design standards (Technical Design Manual #4).

4. Completion of the construction of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter, and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details and design manuals.

5. The developer shall be required to install landscaping in the arterial street median(s) adjoining this project. In the event that the landscaping already exists within such median(s), the developer shall be required to upgrade such landscaping to meet current City standards.

6. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.

7. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "The Villages at Carino Commons," kept on file in the City of Chandler Planning Services Division, in File No. DVR04-12 The Village at Carino Commons, except as modified herein.

8. The landscaping in all open spaces and rights-of-way shall be maintained by the adjacent property owner or a homeowners' association.

9. Approval by the Director of Planning and Development of Plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Public Works for arterial street median landscaping.

10. Sign packages, including free-standing signs as well as wall-mounted signs, shall be designed in coordination with landscape plans, planting materials, storm water retention requirements and utility pedestals so as not to create problems with sign visibility or prompt the removal of required landscape materials.

11. The source of water that shall be used on the open space, common areas, and landscape tracts shall be reclaimed water (effluent). If reclaimed water is not available at the time of construction, and the total landscapable area is 10 acres in size or greater, these areas will be irrigated and supplied with water, other than surface water from any irrigation district, by the owner of the development through sources consistent with the laws of the State of Arizona and the rules and regulations of the Arizona Department of Water Resources. If the total landscapable area is less than 10 acres in size, the open space common areas and landscape tracts may be irrigated and supplied with water by or through the use of potable water provided by the City of Chandler or any other source that will not otherwise interfere with, impede, diminish, reduce, limit or otherwise adversely affect the City of Chandler's municipal water service area nor shall such provision of water cause a credit or charge to be made against the City of Chandler's gallons per capita per day (GPCD) allotment or allocation. However, when the City of Chandler has effluent of sufficient quantity and quality which meets the requirements of the Arizona Department of Environmental Quality for purposes intended available to the property to support the open space, common areas, and landscape tracts available, Chandler effluent shall be used to irrigate these areas.

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

And Stipulation #12 recommended by Staff: That with regard to the design of the gas station fuel canopy, the developer will make modifications in an effort to further enhance the appearance of the project.

In response to a question relative to the fact that the proposal does not contain a car wash on the site and whether it could be added later on without coming back to the Commission, MR. KURTZ responded that Staff would make an evaluation on that based on the proposal at that time. He explained that that is something that Staff could look at administratively unless otherwise directed from this process by the Commission and Council. He confirmed that pads A and C are both potential drive-throughs.

RALPH PEW, 10 West Main Street, Mesa, an attorney representing the applicant, addressed the Commissioners regarding this case. He stated the opinion that it is very clear from the Staff report and comments from MR. KURTZ, that the design of the project is exemplary and well thought out and integrates a multi-family component with a commercial component, all of which was previously approved under the 1996 Carino Estates Area Plan. He added that after meeting with the neighborhood groups, there were several issues about how to deal with the commercial portion of this in particular and noted that they have enhanced the landscaping along the northern boundary, widened the depth of it, increased the amount of landscaping to two rows of trees, and moved the buildings as far away from the residential properties as possible. He further stated that on the multi-family side, they have re-orientated a few buildings to provide room for additional landscaping and obscure any line of sight intrusions that might exist. He noted that this is a request to modify the previously approved conceptual zoning and add approximately one acre of commercial zoning on the Queen Creek frontage in order to integrate the commercial with the multi-family component in a unique manner.

MR. PEW added that in 1996 when the Carino Estates area plan was adopted, although the corner was approved for commercial, no discussion took place regarding the placement of a gas station on the site. He said that as MR. KURTZ pointed out, gas stations must be specifically identified as allowed uses and added that they were present this evening to request zoning and PDP approval for the commercial zoning, including gas dispensing, and for the multi-family. He expressed the opinion that the location is appropriate for a gas station and pointed out that when Queen Creek Road is ultimately improved, it will have six lanes of traffic, just like Arizona Avenue, and will be a very busy intersection. He informed the Commissioners that gas stations do not attract traffic, they service people who are already on the road and in the area. He added that the intersection merits the member's attention because it is one of the commercial nodes designated in the City's General Plan. He stated the opinion that if there is a location for more intense uses, it is here. He also noted that the commercial component has a minimal amount of site coverage, 13%, and said they were willing to abide by the new Stipulation (#12) as proposed by Staff.

MR. PEW commented that this is the first corner at the intersection requesting formal PDP approval of gas dispensing. He reported that the gas station is approximately 450 feet from the nearest property owner to the north and is buffered from those owners by the Shops A and Major A on the site plan. He said it was not unusual to have a gas station within this proximity to residential housing and added that they would also prohibit deliveries to the Major A parcel between 11 p.m. and 6 a.m. MR. PEW noted that everything proposed for this center could fit on an existing Safeway site. He discussed phasing and said that the City's ordinance requires that a minimum of 12,000 square feet be included in the first phase with the corner gas station and said they planned to fully comply with this requirement. He added, however, that to ask them to build the entire shopping center at one time is a very difficult thing to do and emphasized that a specialty tenant for Major A still needs to be identified and that will take some time and effort. He said they would agree to install landscaping along the northern boundary, one row of the landscaping trees, in the first phase of the entire project.

MR. PEW thanked the members of the Commission for the opportunity to address them and urged them to support Staff's recommendation and forward this on to Council with a recommendation for approval.

Discussion ensued relative to surrounding zoning in the County, the fact that when the City annexes the property, they will be granted the comparable City zoning to the County's C-3 zoning; the fact that the commercial zoning districts are relatively small in size and the fact that the County's C-3 zoning would allow gas stations.

In response to a question from COMMISSIONER HEUMANN, MR. PEW stated that the construction of only a gas station and pads would not be sufficient for the owners to delay the rest of the project. He added that in order to be productive and profitable they will have to locate users. He said it could happen but it is very unlikely since the applicant would be losing money every day.

COMMISSIONER IRBY stated that he lives in the area and he finds the proposal to be very attractive. He expressed concerns relative to the Phase I and Phase II street improvements on Queen Creek Road and that they might create a wider Queen Creek Road than west of there on the residential portion. He noted that they have received very specific right-of-way details and requirements for the improvements in the entire project. He added that Phase III, when approved, will be similar to the others and he would anticipate that some type of "taper" will be required from the City's Engineering Department. COMMISSIONER IRBY stressed the importance of continuity and asked whether the possibility existed to get all of Queen Creek Road improved. MR. PEW reported that discussions are occurring with Engineering Staff relative to the complete improvement of Queen Creek Road in connection with the project approved to the south and this project, even though the commercial component of the project has not been approved. He added that negotiations are ongoing relative to that matter.

In response to a question from COMMISSIONER IRBY, MR. KURTZ said that the Engineering Department addresses issues such as road completions and said although the entire road does not always go in, there is phasing and the expectation of a rational nexus of whether the road is required as part of the development. He added that they would not allow a road to be built that did not meet safety standards and concurred with MR. PEW's remarks relative to ongoing discussions relative to the total completion of the road. COMMISSIONER IRBY agreed that the site is appropriate for a gas station and said he was the one who raised concerns regarding the architecture, the canopy and the importance of blending in more with the center. He said that a lot of nice architectural elements exist and it represents a nice transition between residential and commercial. He added that he believed the proposal is a good land use for this project.

Additional discussion occurred relative to the fact that the General Plan identifies this site as a commercial node and all four corners of the intersection are appropriate to be considered for commercial land uses; the fact that Staff looks at gas stations as a part of commercial land uses and the proposed gas station on the southwest corner of the commercial node.

COMMISSIONER ANDERSON said that he concurred with COMMISSIONER IRBY's remarks and added that his only concern is that multiple corners could someday have gas stations and negative aesthetic impacts. He asked whether the applicant has given any thought to designing the station so that only the back of the building can be seen and the pumps are located in the interior of the site. MR. PEW responded that although they have given some thought to doing that, in this case they do not believe it would be a good idea from a noise, light and visibility standpoint. He added the opinion that it would negatively impact the neighborhood and noted that gas stations that have inverted their pumps generally tend to not work as well and provide less security.

In response to a question from the Commission, MR. KURTZ stated that the Council has not given any direction to Staff relative to limiting the amount of gas stations that can be built at an intersection.

ACTING CHAIR POLVANI said that they have received requests to speak and added that public input would take place at this time.

JASON MILLER, 113 West Hawk, stated that he had the opportunity to attend the first planning meeting and added that he believes the proposal is a good use of space. He said that when he purchased his property, he was told that there would be commercial development but he did not realize that this would include the construction of a gas station. He expressed concerns relative to increased traffic and noted that the possibility exists that four gas stations could ultimately be built at this one intersection. He said that from an architectural point of view, the project contains a lot of unique designs and detail and added that he also appreciates the effort that has been expended to buffer the residential family development from the project. He reiterated that his only concern is the traffic that he believes would be generated.

JAN FIAKAS, 2631 S. Emerson Street, a resident of Carino Estates, commented on the legal protest that was filed in opposition to the project and stated that although the proposal has a lot of positives, the neighbors' biggest concern is the gas station. He expressed the opinion that a gas station would not be compatible with the neighborhood and will create more traffic than other uses. He added that the gas station belongs on the northeast or the southeast corner, particularly the northeast corner, and said that a gas station on the proposed corner will be closer to residential development than the other three corners. He discussed an alternative proposal and requested that the Commissioners deny the zoning and the request for a gas station at this location.

ACTING CHAIR POLVANI stated that Melanie Reyes, 2891 S. Sunland Court, submitted a slip in opposition to the project but did not wish to speak at this time.

JERRI COUTTS, 2890 S. Sunland Court, addressed the Commissioners and posed a question relative to notes she had that represented the initial review comments relative to the project that were passed on to the developer. MR. KURTZ explained that when an initial review takes place, Staff gets into everything and anything they can possibly think of to generate a list of discussion points to further discuss with the applicant. He added that what Ms. Coutts was talking about was part of the City's multi-family design standards and contains an exhaustive list of everything one might want to look at when reviewing a multi-family project. He noted that one of the items talks

about how to provide a separation transition between single-family residential areas and a multi-family project and one of the techniques the policy says should be looked at is to provide a certain distance, 150 feet. He emphasized that the 150 feet is not a Code requirement, it is an objective to identify how one project can relate to another. He said this project utilized a different transition method but an effective and acceptable one to Staff.

MS. COUTTS stated that she is opposed to the project.

KEVIN COUTTS, 2890 S. Sunland Court, expressed opposition to the proposal and concerns relative to the development of a gas station and resulting safety hazards as a result of U-turns and the frequency of vehicles pulling in and out of the property versus a restaurant or another type of business. He agreed that the commercial component is classy and well designed and said he could not understand why they wanted to block such a nice looking project by putting in a gas station. He expressed the opinion that a gas station is not appropriate for this location and spoke in support of protecting the quality of life in the area. He also expressed concern about the possibility of someday having four gas stations at that location.

ACTING CHAIR POLVANI noted that Liane Bowles, 2821 also submitted a slip in opposition to the project but does not wish to speak at this time.

JAKE SESSIONS, 103 West Hawk Way, said he too is opposed to the proposal and added that he concurs with everything that has been stated by the previous speakers. He expressed concerns relative to the development of a gas station long before other tenants have signed leases at that site and the lack of adequate buffers. He noted that the possibility exists for multiple gas stations at this location and asked the Commissioners to deny the request.

ACTING CHAIR POLVANI stated that WAGNER SOUSEN, 2880 S. Sunland Court and Carlos Bernabe, 202 West Way, also submitted cards in opposition but do not wish to speak at this time.

ALEX FINLAND, 93 West Hawk Way, addressed the Commission and said that the residents like the proposed project but have concerns regarding the proposed gas station. He noted that Pads A and B are drive through and stated that they will be located in close proximity to the gas station. He said he is worried about the traffic that will be generated by the business and the fact that traffic will be going in and out of there all hours of the day and into the night. He also expressed noise concerns and added that additional parking could be provided if the gas station was eliminated from the proposal. He added the opinion that the development of a gas station at that location would lessen the likelihood that higher end retail establishments will lease space at that corner.

PAUL RANDOLPH, 292 West Raven Drive, noted that he previously submitted an e-mail to Ms. Porter, which she disseminated to the Council, on behalf of the Carino Homeowners' Association and said that he is President of that group. He commented that the residents appreciate all of the information that has been provided but added that they oppose the development of a gas station. He said that the area already has a large number of gas stations and expressed the opinion that another one would detract from the residential community in general.

There being no addition citizens wishing to speak, ACTING CHAIR POLVANI closed the public input portion and asked whether MR. PEW wanted to respond to some of the comments that were made.

MR. PEW stated that they disagreed with the comment that the development of a gas station would hamper efforts to correctly market the property to quality tenants and added that in many respects, it is actually a help to the site. He reported that sufficient, if not overly sufficient, parking exists. He referred to the two proposed drive-throughs on the site (Pads A & B) and pointed out that Pad A has been designed in such a way to cluster both the drive-through and the shops. He added that all of the parking is located on the interior and there is no direct access from the arterial to the drive through. He expressed the opinion that the gas station would be a "capturer of traffic" rather than a "generator of traffic" and would capture traffic that is already in the area. He noted that the proposed site is the only one that is ready for a gas station and no one knows when that is going to happen on any of the other corners.

MR. PEW expressed appreciation to the members of the Commission and urged them to support the request.

In response to a question from COMMISSIONER HEUMANN, MR. PEW stated that there would not be any restriction on the hours of operation of the gas station so the business could stay open 24-hours a day. The Commissioner asked whether all of Diamond Shamrock's gas station operated 24-hours a day and MR. PEW responded that not all of them remain open for that period of time. COMMISSIONER HEUMANN asked whether the applicant would be willing to limit the hours of operation in an effort to alleviate some of the citizens' concerns. He asked whether there were restrictions on hours of operation for the drive-through on Pad A and expressed the opinion that one row of trees buffering that business from the residential area will not suffice, particular if the business operates 24-hours a day.

MR. PEW responded that the plan for Pad A is that it be built in the first phase and stated the opinion that the noise would be mitigated by Shops C, located immediately north. He added that they could include in their improvements for Phase 1 all of the landscaping at the area discussed by COMMISSIONER HEUMANN.

COMMISSIONER HEUMANN requested that MR. PEW discuss with the applicant additional landscaping versus one row of trees as well as well they would be willing to limit the hours of operation for both the gas station and the drive-through. MR. PEW referred to the entire area that would be landscaped during Phase 1 as well as one row of trees along the northern boundary. COMMISSIONER HEUMANN said that he would like to have the landscaping put in all along the northern boundary, not just one row and questioned the size of the trees that they are proposing. MR. PEW advised that they have agreed to plant trees that are a minimum of 12-feet in height.

ACTING CHAIR POLVANI referred to a comment made by one of the citizens relative to traffic volumes and asked whether any studies have been conducted relative to the amount of traffic generated by a gas station. MR. KURTZ responded that from a traffic engineering standpoint, there is no traffic difference between a gas station and a fast food restaurant. He added that U-turns are allowed turns in Arizona and median breaks are planned.

In response to COMMISSIONER HEUMANN's previously posed questions, MR. PEW reported that the applicant is not agreeable to restricting the hours of operation on the gas station site but is agreeable to installing all of the landscaping along the northern boundary.

Discussion ensued among the various Commissioners relative to existing utilities on the corner and the possibility of under-grounding them; directing Staff to begin working on an ordinance that will allow the City to underground the overhead power lines, similar to ordinances adopted by other municipalities; the fact that 90% of gas stations' traffic consists of people driving by and pulling in

and not the result of actually driving to that site; internalizing the station; and potential negative impacts on the surrounding neighborhood.

ACTING CHAIR POLVANI expressed the opinion that the project is exceptional and added that she appreciates the 13% coverage. She stated that although she respects the neighbors' concerns, she believes that the gas station is an appropriate use for that location. She added that the future widening of Queen Creek Road and Arizona Avenue will address traffic concerns. Staff was requested to find out what the phasing schedule is for the widening of Queen Creek Road.

MR. KURTZ advised that Staff's goal is to reduce or underground the existing well head but added that the costs associated with under-grounding could be explored as well as different design options should the Commission wish to proceed in that manner. He confirmed that the applicant intends to screen the well head to hide it as much as possible.

COMMISSIONER IRBY asked whether they could direct Staff to monitor intersections such as this in an effort to limit the number of gas stations that are developed on corners. He added that he believes an ordinance exists that regulates the number of grocery stores that can be located and asked whether they could do the same with gas stations.

MR. KURTZ advised that any dialogue that takes place at the Commission or Council meetings is public information and part of the record. He said that whenever a developer approaches Staff, they provide him/her with all available information so they can base their decisions on accurate information. He added that the General Plan designation is as far as they go from a Staff perspective of making recommendations to the Commission on land use. He said the next level is design, and whether there is something inappropriate that would cause them to recommend denial. He assured the members that their dialogue will be shared.

COMMISSIONER IRBY said he wanted to go on record as stating that as other projects come on board, they might want to take a look at re-orienting the gas station on the southwest corner, perhaps internalizing it. He said each project will need to be looked at on a case by case basis.

MOVED BY COMMISSIONER IRBY that DVR04-0012 The Village at Carino Commons be approved subject to the twelve (12) stipulations stated above and additional Stipulation #13, no deliveries occur at the main center between the hours of 11 p.m. and 6 a.m. and Stipulation #14, that all of the utilities be under-grounded on the property, particularly at the main intersection.

ACTING CHAIR POLVANI seconded the motion and said she had two additional stipulations: Stipulation #15, that the developer put in all of the landscaping on the north side of the site and Stipulation #16, that the appropriate mitigation of the well site will occur.

COMMISSIONER HEUMANN said he agreed that the two stipulations recommended by Acting Chair Polvani should be included.

The Acting Chair called for the question and the motion failed for lack of a majority (2 to 2 with Vice Chairman Flanders abstaining from the vote.

COMMISSIONER HEUMANN stated that he voted against the motion because he had some concerns that were not addressed. He added the opinion that the project has a lot of validity to it and he was hoping to achieve more of a compromise.

MOVED BY COMMISSIONER HEUMANN that DVR04-12 The Village at Carino Commons be approved subject to Stipulations #1 through #12 as previously listed and the addition of Stipulation #13, no deliveries may occur at the main center between the hours of 11 p.m. and 6 a.m.; Stipulation #14, that the station be re-oriented to internalize the pumps; Stipulation #15, that the hours of operation on the site be limited to no later than 1 a.m. on the gas station and the drive-throughs, Stipulation #16, all utilities are to be fully under-grounded, and Stipulation #17, all landscaping on the north side of the project will be completed installed.

COMMISSIONER HEUMANN said that he would like to see the project go forward with some changes and additional protection for the neighborhood. He added that the gas station and drive-through will be closed between 1 a.m. and 5 a.m. COMMISSIONER ANDERSON seconded the motion.

Discussion ensued relative to the fact that the re-orientation of the gas station may create more noise and lighting impacts on the surrounding neighborhood.

ACTING CHAIR POLVANI commented that she could support the limited hours but without reviewing a re-orientation plan and its possible effects, she could not support that Stipulation.

Discussion ensued among the Commissioners relative to continuing this case to a future meeting to allow the applicant the opportunity to develop a re-orientation plan for the Commission's review and consideration as well as discuss other items.

COMMISSIONER HEUMANN WITHDREW his motion and COMMISSIONER ANDERSON WITHDREW his second to the motion.

COMMISSIONER HEUMAN MOVED to continue DVR04-0012 The Village at Carino Commons, to the June 16, 2004 Commission meeting to allow the applicant an opportunity to look at the re-orientation, the hours of operation, phasing and landscaping issues. COMMISSIONER ANDERSON SECONDED the motion. MOTION CARRIED UNANIMOUSLY (4-0) by those present with VICE CHAIR FLANDERS abstaining from the vote.

The case was continued to the Commission's June 16, 2004 meeting.

A brief recess took place at this time.

B. <u>APO4-0001/DVR04-003 SOUTHSHORE TOWN CENTER</u>

Request Area Plan amendment from Light Industrial and Hotel to Commercial and rezoning from Planned Area Development (PAD) Light Industrial and Hotel to PAD to allow Commercial with Preliminary Development Plan (PDP) approval for a commercial center on approximately 40 acres located at the southeast corner of Arizona Avenue and Ocotillo Road.

MR. KURTZ stated that this case is a request for approval of an Area Plan amendment, rezoning, a Preliminary Development Plan and a Preliminary Plat. He noted that the proposal is to construct a Home Depot and a shopping center on the southeast corner of Arizona Avenue and Ocotillo Road. He added that the Area Plan is to amend the Southshore Area Plan that has been in existence since the late 1980's and has been extended through zoning several times since then. He noted that the specific request is to amend approximately 29 acres of what is now designated as industrial and re-designate it to commercial. He stated that they are also being asked to rezone approximately 40

acres of the property to PAD commercial that would have two separate parcels, one that would proceed under a Preliminary Development Plan (approximately 26 acres out of the 40 acres) and the 14-acre balance would remain Conceptual PAD while the 26 acres would be considered under the Southshore Town Center Shopping Center. He reiterated that Home Depot will be the major tenant and there will be associated retail shops and freestanding pads. He reported that the overall center is approximately 187,000 square feet with Home Depot (including the garden center) being 137,156 square feet, which does not qualify under the City's large single user (big box) ordinance. He advised that the property is located at an arterial road and discussed surrounding developments and zoning.

MR. KURTZ commented on the Area Plan for the property and said it is designated on the City's General Plan and on the Southeast Chandler Area Plan as a commercial node. He added that the area plan change the Commission is being asked to consider is consistent with the General Plan. He noted that the second part of the application is for rezoning for the Home Depot and said that the site also includes 41,925 square feet of retail space and 8,500 square feet for an auto repair center. He said that from a commercial design standpoint, Staff evaluated the proposal and it meets the City's recently adopted Commercial Design Standards, both architecturally and from a site design point.

MR. KURTZ stated that Staff recommends approval of all the requests, subject to the following stipulations, including one additional Stipulation, #15, which requires the developer to contribute 25% of the cost of the traffic signal at Arizona Avenue and New Street:

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Southshore Town Center," kept on file in the City of Chandler Planning Services Division, in File Nos. AP04-0001 and DVR04-0003 except as modified by condition herein.

2. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.

3. Right-of-way dedications to achieve full, half-widths for arterial and collector streets, including turn lanes and deceleration lanes per the standards of the Chandler Transportation Plan.

4. Under-grounding of all overhead electric (less than 69 kv), communication, and television lines and any open irrigation ditches or canals located on the site or within adjacent right-of-ways and/or easements. Any 69 kv or larger electric lines that must stay overhead shall be located in accordance with the City's adopted design and engineering standards. The aboveground utility poles, boxes, cabinets or similar appurtenances shall be located outside of the ultimate right-of-way and within a specific utility easement.

5. Future median openings shall be located and designed in compliance with City adopted design standards (Technical Design Manual #4).

6. Completion of the construction of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter, and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details and design manuals.

7. The developer shall be required to install landscaping in the arterial street median(s) adjoining this project. In the event that the landscaping already exists within such median(s), the developer shall be required to upgrade such landscaping to meet current City standards.

8. The landscaping in all open spaces and rights-of-way shall be maintained by the adjacent property owner or a property owners' association.

9. The freestanding pads shall carry an architectural level of detail similar to front faces of main buildings.

10. Approval by the Director of Planning and Development of Plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Public Works for arterial street median landscaping.

11. Sign packages, including free-standing signs as well as wall-mounted signs, shall be designed in coordination with landscape plans, planting materials, storm water retention requirements and utility pedestals so as not to create problems with sign visibility or prompt the removal of required landscape materials.

12. Sign panels on the monument signs shall have a decorative panel with tile or stone until a tenant name is located on the sign.

13. The source of water that shall be used on the open space, common areas, and landscape tracts shall be reclaimed water (effluent). If reclaimed water is not available at the time of construction, and the total landscapable area is 10 acres in size or greater, these areas will be irrigated and supplied with water, other than surface water from any irrigation district, by the owner of the development through sources consistent with the laws of the State of Arizona and the rules and regulations of the Arizona Department of Water Resources. If the total landscapable area is less than 10 acres in size, the open space common areas and landscape tracts may be irrigated and supplied with water by or through the use of potable water provided by the City of Chandler or any other source that will not otherwise interfere with, impede, diminish, reduce, limit or otherwise adversely affect the City of Chandler's municipal water service area nor shall such provision of water cause a credit or charge to be made against the City of Chandler's gallons per capita per day (GPCD) allotment or allocation. However, when the City of Chandler has effluent of sufficient quantity and quality which meets the requirements of the Arizona Department of Environmental Quality for purposes intended available to the property to support the open space, common areas, and landscape tracts available, Chandler effluent shall be used to irrigate these areas.

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

14. The approximately 14-acre commercial site is approved on a conceptual PAD status only and shall require separate Preliminary Development Plan application and approval.

And Stipulation #15, to the effect that the developer shall contribute 25% of the cost of the traffic signal at Arizona Avenue and New Street.

MR. KURTZ added that Staff also recommends approval of the Preliminary Plat subject to the following condition:

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.

MR. KURTZ advised that the project includes a water feature as well as accent landscaping.

In response to a request from VICE CHAIR FLANDERS, MR. KURTZ stated that Home Depot will be the first phase of the development.

STEPHEN EARL, speaking on behalf of the applicants in this case, said that approximately three years ago, they began working with Staff to determine which of three identified corners would be the best site for a Home Depot. He said that they ultimately selected the proposed site primarily because of its orientation to the railroad. He added that they wanted to place the building on a site that would not be close to neighbors and this location is ideal. He stated that they always attempt to meet all of the guidelines and have done so in this case. He commented on concerns that have been voiced relative to the phasing of the development and said that although Home Depot will be the driving force behind the project, A&C Properties is prepared to develop out the site so that when the Home Depot is being built, all of the perimeter and street improvements and utilities will all be built in the first phase. He added that within a relatively short period of time all of the additional shop buildings will also be built so the amenities will not be delayed.

MR. EARL referred to the proposed elevations and said it will be one of the best-designed Home Depots in Arizona. He briefly outlined efforts expended by the applicant to meet the desires of Staff. He noted that one neighborhood meeting was held and the one resident of Pinewood Estates showed up, was shown the renderings, and was very much in support of the Home Depot. He commented on the extensive notification process that was undertaken and said that Desert Palms Presbyterian Church (planning to locate south of the center) also supports the project. He discussed the square footage of the Home Depot and identified the area that would be used for seasonal sales when they occurred. He noted that in Home Depots throughout the Valley, there are outdoor displays that reach beyond the store and said great pains have been taken to begin a new trend. He explained that they chose the proposed seasonal sales area because it would be buffered from the traffic and the public by additional construction. He added that he understood that the City has a policy in place for applying for a use permit and he said they intend to follow all requirements and regulations. He pointed out that if any display did extend out of the building, it would have to stay within the eaves of the building

MR. EARL also reviewed the features of the plan, including the entryway, a trellised area for seating, and outdoor seating areas for restaurants.

In response to a request from COMMISSIONER IRBY, Mr. Earl expanded upon their proposal for outdoor displays. He discussed the creation of overhangs and the various areas where items may be displayed and agreed that in reviewing the plans, there are some small areas where there is no

overhang. He noted the areas where flowers would be displayed outdoors. He stated that a Home Depot under construction that conforms to the new display criteria is located in Queen Creek and added that another one has been approved for 99th & Camelback, but there are no completed facilities at this time.

COMMISSIONER IRBY expressed concern relative to outdoor displays and said there should be a stipulation added that limited that activity. He said that he thought the store was very nice looking and posed questions relative to the proposed signage. He added that he would prefer individual letters on the signs (contractor pick-up and tool rental signs) and stated that they should be white instead of orange lettering. He also expressed concerns regarding signage on some of the other free-standing pads, including the auto repair facility and said they needed to do something with the front of it to make it more pleasant looking on the western side. He added that Shops A is of particular concern to him and said that it has one of the weakest elevations in the entire center and breaks away from the Home Depot characteristics.

Discussion ensued relative to the fact that the proposal attempts to remain consistent as far as colors, certain roof and sloped elements as well as awning roofs and the City's requirement that different materials must be used.

COMMISSIONER ANDERSON expressed the opinion that the signage does not appear to go with the façade of the buildings, particularly on the south elevation where the signage does not seem to integrate into the building. Mr. Earl agreed that the sign on the south rear elevation was not necessary.

COMMISSIONER HEUMANN said he could not find a stipulation relative to limiting out door signage and Mr. Earl responded that there was no stipulation per se, they just agreed to limit their areas. He said they would be willing to consider a stipulation that clarified that matter. COMMISSIONER HEUMANN stated concern that the outdoor displays would interfere with access.

Additional discussion ensued relative to the various seasonal displays, the fact that the displays would be secured with a chain link fence, the main entrance feature, and a suggestion that this case be forwarded to the Design Review Board for their review, input and additional clarifications.

VICE CHAIR FLANDERS asked whether anyone in the audience wished to speak to this item.

BOB CURLEY, 1100 North Priest Drive, addressed the Commission relative to this agenda item and said it was his understanding that in the City of Chandler you had to have C-3 zoning with a use permit or I-1 or I-2 for recreational vehicle use. He asked how C-2 zoning could be used for outdoor storage.

MR. KURTZ responded that the application the Commission is considering is for PAD zoning, which can be tailored with C-2 uses or other uses included as a part of that PAD zoning district. He added that there would be C-2 uses and other additional uses as a part of the property's zoning, which is PAD.

MR. CURLEY advised that his company is in the process of trying to locate some RV mini-storage sites in the City of Chandler and said he was told that they needed C-3 zoning with a use permit or I-1/I-2 zoning in order to get that use approved.

MR. EARL said they had made a sincere effort to comply with the City's recently adopted design standards and expressed their willingness to work with the Commission and Staff relative to the pads and outdoor storage areas. He added that they were willing to identify areas that could have outdoor displays and said they would agree to a stipulation.

In response to a question from Vice Chair Flanders, MR. KURTZ advised that the Commission has a variety of options they could pick from.

Discussion ensued relative to sending the case to the Design Review Board and MR. KURTZ said that it could be continued to the July 7, 2004 meeting and the fact that this would allow sufficient time for the Design Review Board to review the matter.

COMMISSIONER HEUMANN MOVED to continue AP04-0001/DVR04-0003 Southshore Town Center to the July 7, 2004 Commission meeting to allow the case to be reviewed by the Design Review Board. COUNCILMAN IRBY SECONDED the motion, which carried unanimously by those present (5 to 0).

Staff advised that they would notify everyone of the date of the Design Review Board's meeting.

C. DVR03-0037 NORTHWEST RIGGS AND COOPER 2

ASHLEY BAILEY, PLANNER, stated that the request is for rezoning from Agricultural to Planned Area Development with Preliminary Development Plan approval for general and medical condominium development on approximately 2.8 acres. The project includes four single-story buildings ranging in size from approximately 5, 600 square feet to 6,400 square feet with a total building area of approximately 24,000 square feet. The applicant requests a ratio of 25% medical and 75% professional office. The development will occur in one phase. The 2.8-acre site is bound by Riggs Country Estates to the north and west, as well as two other established single-family subdivisions to the south. To the east of Cooper Road there is vacant farmland currently zoned County Rural 43.

The four proposed buildings are set in a landscaped setting to buffer the office use from the adjacent single-family homes. Sidewalks and designated crossing areas within the project provide pedestrian access to all office areas and perimeter sidewalks adjacent to the streets. Pine trees line the north and west property lines to buffer the use from the adjacent residences, as well as help visually reduce the appearance of the parking lot. Two pedestrian features flank Building C, one at the main entrance and one that is accessible only through Building C. Staff has concerns about limited amenities between the buildings and recommends approval with the condition that low walls, planters, and additional tree massing shall be located between the buildings to create a useable courtyard amenities.

The applicant also requests a waiver from the Zoning Code regarding parking requirements. Based on the project's representations, 130 parking spaces are required. The applicant has provided 121. Staff does not support the proposed waiver due to the site's inability to provide overflow parking on adjacent parcels and recommends that the parking provided for the site meet the City's parking standards.

There was a comprehensive sign package submitted. There will be no monument signs on the site. The building signage will use backlit, individual mounted, black metal finished letters. Tenant signage facing any residences will be non-illuminated. Staff supports the sign package with the added condition that signage shall be halo illuminated, reverse pan-channel letters.

The proposed site layout and building architecture incorporates some of the Southeast Chandler elements desired; however, Staff believes the building architecture is conventional and does not fully achieve the rural design desired in Southeast Chandler. Flat roofs are a major design feature and very dominant with the proposed development. Pitched roofs, trellis elements and exposed wood details exist only as a secondary element. The color palette is monotone and limited wood details exist as a secondary element. The limited material section also does not effectively break up wall massing. There's no deviation in architecture, roof plane changes, or building footprints for Buildings A, B, and D. Except for small sections of split rail fencing in the landscape setback and small corrugate metal pop-outs beneath flat roof elements on each building, there are no rural-themed site features evident in the site layout and building architecture. Staff supports the proposed site design with the condition that additional "rural themes shall be incorporated into the site layout, lighting, and architectural details".

MS. BAILEY stated that because this is the first office development in Southeast Chandler, ensuring the building architecture and site layout establishes an acceptable level of quality for the Southeast Chandler area is essential. Staff recommends approval of both the rezoning and PDP application subject to those conditions.

PAUL DEVERS, CAWLEY ARCHITECTS, 1724 E. 4TH STREET. Mr. Devers stated that this is a first-class, four building office condominium complex. They specialize in doing these projects throughout the Valley and felt they knew what the developers are looking for. He stated that their original concept was to derive some of the architecture from the residential development to the northeast, but soon found out that that was not the right tactic to take. Through working with Staff and making several modifications to the building architecture and site plan, they felt they had achieved a very quality project and had met their interpretation of the Southeast Chandler rural agrarian architecture and design. He stated that he understood that Staff and Commission had concerns.

VICE CHAIR FLANDERS commented that the Southeast Chandler Area Plan is very near and dear to their hearts, due to all the work that had been done on the residential and commercial. He stated that the reason they wanted to talk about this project is because this is the first office project that is coming through. In looking at the project, the Vice Mayor commented he had hoped that there would be more articulation on street frontage in order to come closer to the Southeast Chandler Area Plan design. He felt the site plan was fine and that Staff had done a good job interpreting the requirements and stipulations related to the project. He indicated that the buildings were not quite there yet and he wasn't sure what could be done to get them further down the road.

MR. DEVERS displayed renderings to illustrate the materials on the project. He pointed out they had used wood materials, specifically the open, exposed trusses on the ridgelines. Also, concrete tile roofing was utilized, as well as fieldstone for column bases, and wainscoting for accents at the seating walls and fountain area. In addition, casement-type metal windows with horizontal moldings will be used, metal accents along the top, which are corrugated metal shutters, and smooth stucco finish. Tiled paved stone is being used for enhanced paving. With regard to the elements for a rural agrarian character, Mr. Devers went on to explain that they've used simple, multi-form roofs with a gabled roof on one exposure, and mansard roofs on the other exposure. There will be open rafter tails at the 24" overhangs. There is an appearance of thicker walls in some of the column areas in the corners.

MR. DEVERS stated that they met with Staff after THE Commission had received their packets. Staff indicated that they wanted to see development courtyards and intimate spaces between the

buildings. With that information, Mr. Devers stated that they came back with an alternate landscaping plan that details enhanced paving, low seat walls to create an intimate setting, arbors, outdoor pedestrian areas, and the addition of a fountain composed of fieldstone and a low seating area. In addition they incorporated recessed doorways at entrances, offset wall planes from the corners in some of the main walls, and added theme lighting for the building sides.

COMMISSIONER HEUMANN asked Ms. Bailey if she had seen the new plan. Ms. Bailey stated that this was the first time that she had seen the plan and had not had a chance to evaluate the plan.

MR. DEVERS said that the rendering is a result of Staff's comments for adding additional elements into the site and into the buildings. He went on to say that he understood the color palette was a little bit monotone, but felt it was something that they could look at.

COMMISSIONER HEUMANN stated that to get something like this at 8:30 on Commission hearing night did not give Staff any time for review, as well as Commission. He felt there were many issues that did not need to be thrown out at the last hour. COMMISSIONER HEUMANN stated that this is the first office building in the Southeast Chandler Area Plan and reiterated Vice Chairman Flanders' sentiment that Southeast Chandler was very near and dear to their hearts and to the Council's hearts to make sure that the project was right. He felt this project needed to go to Design Review to resolve a lot of issues such as parking and the whole agrarian feel.

VICE CHAIRMAN FLANDERS suggested to the applicant that if the project goes to Design Review, that it would be advisable to bring a material board so that the Committee could see the material as far as the stone and wood. He said that the DR is a good way to work out all the rough edges, but at the same time felt that the project is pointed in the right direction.

COMMISSIONER IRBY said that he also recommended that the project go to DR to work through some of the concerns. He felt the project was on the right track and it was close, but there wasn't enough being presented that gave Commission the comfort level that was needed. He also pointed out that the applicant might want to look at the white fencing that seems somewhat lost and floating. He felt it needed to be more integrated within the project. He said that three of the buildings look identical and there needed to be more variety. The stone pillars, similar to Building C, needed to be used in some of the other buildings and bring more stone notches to the wainscot a little higher up on the building. He stated that the color was very monotone and suggested that the colors be varied, slightly lighter or darker in some areas.

COMMISSIONER POLVANI MOVED that Case DVR03-0037 Northwest Riggs and Cooper 2, be CONTINUED to the July 21, 2004 Commission meeting so that the case can be brought before the Design Review Board at their next meeting. COMMISSIONER HEUMANN SECONDED the motion, which CARRIED UNANIMOUSLY by those present (5 to 0).

Staff stated that they would find out the exact date of the next Design Review Board and will provide that information to everyone involved.

Discussion ensued relative to developing a time schedule and process for the next meeting regarding this issue and the various speakers.

VICE CHAIR FLANDERS thanked Staff for their hard work and patience and said he would like them to work on scheduling a meeting with the Council over the next couple of months.

MR. KURTZ said that he would follow up on that request.

7. DIRECTOR'S REPORT - No report.

8. CHAIRMAN'S ANNOUNCEMENT

The next meeting will be held on June 16, 2004 at 5:30 p.m.

9. ADJOURNMENT

The meeting was adjourned at 8:37 P.M.

_____
Michael Flanders, Vice Chairman

_____
Douglas A. Ballard, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, June 16, 2004, held in the City Council Chambers, 22 S. Delaware Street.

1. Chairman Ryan called the meeting to order at 5:47 p.m.

2. Pledge of Allegiance lead by Commissioner Anderson.

3. The following Commissioners answered Roll Call:

   Chairman Phil Ryan
   Vice Chairman Michael Flanders
   Commissioner Jeanette Polvani
   Commissioner Rick Heumann
   Commissioner Mark Irby
   Commissioner Brett Anderson

   Also Present:

   Mr. Jeff Kurtz, Current Planning Manager
   Mr. Thomas Ritz, Planner
   Ms. Ashley Bailey, Planner
   Mr. Bob Weworski, Principal Planner
   Mr. Kevin Mayo, Planner
   Mr. Glenn Brockman, Assistant City Attorney
   Ms. Linda Porter, Secretary

4. APPROVAL OF MINUTES

VICE CHAIRMAN FLANDERS stated that on Page 10 of the minutes, in the fifth paragraph from the bottom, the minutes state that the motion was made by Commissioner Heumann and that should be changed to Commissioner Irby. In addition, on Page 11, reference is made in three separate locations to Chairman Heumann and those should be changed to Commissioner Heumann.

MOVED BY VICE CHAIRMAN FLANDERS, seconded by COMMISSIONER IRBY to approve the minutes of the June 2, 2004 meeting as amended. MOTION WAS APPROVED UNANIMOUSLY.

5. CONSENT AGENDA ITEMS

VICE CHAIRMAN FLANDERS advised that the Commission and Staff met prior to this meeting at a Study Session to discuss each of the items on the agenda and, as a result of that discussion, two of the four items are now on the Action Agenda (Items A and B). He said that anyone wishing to speak for or against the items on the agenda should fill out a speaker card and turn it in to Linda Porter.

In response to a request from the Chairman, Current Planning Manager Jeff Kurtz advised that Staff is recommending an additional stipulation (#12) to agenda item C (DVR03-0050 Santan/Dobson Business Park), on the Consent Agenda, which states: ***The applicant shall***

work with Staff to enhance the front facade of Building A through additional architectural projections, details and landscaping.

Mr. Kurtz added that Staff is also recommending an additional stipulation (#7) to agenda item D (PDP04-0003 Whitewing at Krueger), on the Consent Agenda, which states*: **All lots along the western boundary of the subdivision shall provide a landscaped buffer between any accessory building less than 30 feet from the rear and the rear property line, which visually masks the structure.***

C. *DVR03-0050 SANTAN /DOBSON BUSINESS PARK

Request rezoning from Agricultural District (AG-1) to Planned Area Development (PAD) on approximately 12.4 acres with Preliminary Development Plan (PDP) approval on approximately 6.6 acres for a business park development with commercial and industrial uses, location west of the southwest corner of Pecos and Dobson Roads.

APPROVED, a request to rezone the property from Agricultural District (AG-1) to Planned Area Development (PAD) on approximately 12.4-acres with Preliminary Development Plan (PDP) approval on approximately 6.6-acres for a business park development with commercial and industrial uses, subject to the following conditions:

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "SANTAN/DOBSON BUSINESS PARK" kept on file in the City of Chandler Current Planning Division in file no. DVR03-0050, except as modified by condition herein.

2. Right-of-way dedications to achieve full half width for Dobson Road, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.

3. The landscaping in all open spaces and rights-of-way shall be maintained by the adjacent property owner or property owners association.

4. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls.

5. Sign packages, including free-standing signs as well as wall-mounted signs, shall be designed in coordination with landscape plans, planting materials, storm water retention requirements, and utility pedestals, so as not to create problems with sign visibility or prompt the removal of required landscape materials.

6. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.

7. Completion of the construction, where applicable, of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details, and design manuals.

8. Undergrounding of all overhead electric (less than 60kv), communication, and television lines and any open irrigation ditches or canals located on the site or within adjacent right-of-ways and/or easements. Any 69kv or larger electric lines that must stay overhead shall be located in accordance with the City's adopted design and engineering standards. The above ground utility poles, boxes, cabinets, or similar appurtenances shall be located outside of the ultimate right-of-way and within a specific utility easement.

9. The developer shall be required to install landscaping in the arterial street median adjoining this project. In the event that the landscaping already exists within such median(s), the developer shall be required to upgrade such landscaping to meet current City standards.

10. The PAD Office/Business Park zoning permits uses such as support retail services, research and development, office/showroom, office/warehouse and complimentary industrial uses. Support retail services can include businesses such as printing facilities, mailing/shipping services and catering services. Complimentary industrial uses can include businesses such as product distribution, machine tool services and distribution. Information technology services and warehousing. General Industrial District (I-2) uses are not permitted within this zoning district.

11. The source of water that shall be used on the open space, common areas, and landscape tracts shall be reclaimed water (effluent). If reclaimed water is not available at the time of construction, and the total landscapable area is 10 acres in size or greater, these areas will be irrigated and supplied with water, other than surface water from any irrigation district, by the owner of the development through sources consistent with the laws of the State of Arizona and the rules and regulations of the Arizona Department of Water Resources. If the total landscapable area is less than 10 acres in size, the open space common areas and landscape tracts may be irrigated and supplied with water by or through the use of potable water provided by the City of Chandler or any other source that will not otherwise interfere with, impede, diminish, reduce, limit or otherwise adversely affect the City of Chandler's municipal water service area nor shall such provision of water cause a credit or charge to be made against the City of Chandler's gallons per capita per day (GPCD) allotment or allocation. However, when the City of Chandler has effluent of sufficient quantity and quality which meets the requirements of the Arizona Department of Environmental Quality for purposes intended available to the property to support the open space, common areas, and landscape tracts available, Chandler effluent shall be used to irrigate these areas.

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

12. The applicant shall work with Staff to enhance the front facade of Building A through additional architectural projections, details and landscaping.

D. *PDP04-0003 WHITEWING AT KRUEGER

Request Preliminary Development Plan approval to amend the development standards to allow the rear and side yard setbacks for detached accessory buildings located in the rear portion of the lot to be reduced to 10' from the rear lot line, 10' from one side lot line, and 40' from the other side lot line.

APPROVED, a request for Preliminary Development Plan approval to amend the development standards subject to the following conditions:

1. Compliance with original stipulations adopted by the City Council as Ordinance No. 3138, in case DVR00-0001 WHITEWING AT KRUEGER, except as modified by condition herein.

2. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Development Booklet for City of Chandler Whitewing at Krueger Development Plan Amendment for Rear Yard Setbacks" kept on file in the City of Chandler Current Planning Division in file no. PDP04-0003, except as modified by condition herein.

3. Homebuilder will advise all prospective homebuyers of the information on future City facilities contained in the City Facilities map found at www.chandleraz.gov/infomap, or available from the City's Communication and Public Affairs Department.

4. The rear and side yard setbacks for detached accessory buildings located in the rear one-third of the lot shall be reduced to 10' from the rear lot line, 10' from one side lot line and 40' from the other side lot line.

5. The maximum depth of any on-lot retention basin shall be one (1) foot.

6. No retaining wall shall be permitted on any resident lot.

7. All lots along the western boundary of the subdivision shall provide a landscaped buffer between any accessory building less than 30' from the rear and the rear property line, which visually masks the structure.

MOVED BY COMMISSIONER IRBY, SECONDED BY COMMISSIONER HEUMANN, that the Consent Agenda items (C and D) be approved with the additional stipulations outlined by Staff. MOTION WAS APPROVED UNANIMOUSLY (6-0).

ACTION AGENDA

A. DVR04-0012 THE VILLAGE AT CARINO COMMONS

CHAIRMAN RYAN stated that he and VICE MAYOR FLANDERS had potential conflicts of interest relative to this agenda item (served as consultants) and for that reason they would refrain from discussing and/or voting on this issue.

COMMISSIONER POLVANI served as Acting Chairman on this agenda item.

Request zoning amendment from PAD Multifamily to PAD Commercial with C-2 and gas station uses to increase the existing PAD Commercial district by approximately 0.89 acres and add gasoline service station uses as a permitted use within a shopping center and decrease the existing PAD Multifamily by approximately 0.89 acres. This zoning amendment would allow the development of 115-unit residential condominium project with two-story buildings on an approximate 10.8-acre parcel and a neighborhood shopping center with a gasoline service station totaling approximately 74,615 square feet on 13.48 acres. The property is located at the northwest corner of Arizona Avenue and Queen Creek Road.

Current Planning Manager Jeff Kurtz addressed the Commission relative to this agenda item and stated that the request before them is a proposal for a shopping center along with a multi-family condominium development located on the northwest corner of Arizona Avenue and Queen Creek Road. He noted that this item was continued from the last meeting and unless anyone would like to hear the background that was presented at the last meeting, he would rather focus on some of the issues that were raised during the last meeting and continue on with the discussion and dialogue.

Mr. Kurtz discussed the commercial corners at the intersection of Arizona Avenue and Queen Creek and noted that in the City's General Plan as well as the Southeast Chandler Area Plan designates the parcels as "Commercial Node." He explained that the issue of how many gas stations could potentially be developed on the corners was a topic of concern and discussion at the previous meeting and added that the appropriateness of developing a gas station on this corner was also discussed. He referred to a Staff Report submitted to the Commission, which outlined the results of Staff's research and noted that the southwest corner of this intersection is part of a larger project recently approved by Council for a commercial shopping center. He added that part of that PAD zoning on the southwest corner specifically allowed the development of a gas station on that corner. He said that there has not been any preliminary development plans approved and Staff does not know at this time if the plans, when they do come in, will include a gas station, but zoning entitlements allow that to occur.

Mr. Kurtz noted that both of the corners on the east side of Arizona Avenue (northeast and southeast) are not within the City limits and are actually located in the County with C-3 zoning, which under the City's zoning does allow a gas station as a matter of right. He added that from an analysis standpoint, those properties are County and when the City annexes those properties the Council has, by practice in the past, attempted to grant the most comparable City zoning district that the parcel enjoys in the County. He stated, however, that when the City annexes those properties, it could it fact designate those properties for a zoning district that differs from the C-3 zoning. He added that the local government will have a say in how those properties are ultimately developed and zoned.

Mr. Kurtz said that Staff also looked at this issue from a feasibility/viability standpoint and stated that on the east side of Arizona Avenue both properties are small, approximately 1.5 acres. He added that in both cases, no right-of-way has been dedicated for the properties and said that after right-of-way dedication, the properties would be approximately 1.2 acres in size or less. He informed the Council that from Chandler's development standards, both from the right-of-way, landscaping and retention required, if there are in fact free-standing gas stations not within a shopping center, they will require more land than 1.2 acres, approximately two and a half acre parcels. He added that from a practical viability standpoint parcel sizes on the east side of Arizona Avenue are too small for a standard, independent, free-standing gas station. He noted that the General Plan recommends that the properties be developed with shopping centers and said that is the economic viability of the properties across the street. He said the property should be developed as a shopping center that may or may not contain a gas station.

Mr. Kurtz also commented on development phasing and said the project includes a first phase consisting of a gas station on the corner and two pad buildings along Arizona Avenue. He pointed out that the proposal meets the City's ordinance requirements for the phasing of shopping centers and said the first phase of a development must contain at least 12,000 square feet. He added that Staff has included a stipulation for consideration regarding the landscaping along the northern side of the site. He stated that the landscaping along the entire north side of the shopping center would be required to be installed as part of Phase I, independent of the balance of the shopping center. He also stated that the staff report contained an error that was created over time as some of the exhibits changed. He pointed out that the report references the potential development of a future Major B, which was shown on some of the earlier exhibits and emphasized that that none of the current plans show a Major B as part of the shopping center. He stated that from an overall perspective on this development, it brings many fine qualities in both commercial and multi-family development and in many respects has come forward as a very high-quality development. He added that from a community standpoint, there is discussion as to whether a gas station is appropriate for the particular situation they are dealing with in this case. He stated that Staff is recommending approval subject to the following proposed stipulations:

1. Right-of-way dedications to achieve full half widths for Queen Creek Road and Arizona Avenue, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.

2. Under-grounding of all overhead electric (less than 69 kv), communication, and television lines and any open irrigation ditches or canals located on the site or within adjacent right-of-ways and/or easements. Any 69 kv or larger electric lines that must stay overhead shall be located in accordance with the City's adopted design and engineering standards. The aboveground utility poles, boxes, cabinets or similar appurtenances shall be located outside of the ultimate right-of-way and within a specific utility easement.

3. Future median openings shall be located and designed in compliance with City adopted design standards (Technical Design Manual #4).

4. Completion of the construction of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter, and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details and design manuals.

5. The developer shall be required to install landscaping in the arterial street median(s) adjoining this project. In the event that the landscaping already exists within such median(s), the developer shall be required to upgrade such landscaping to meet current City standards.

6. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.

7. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "The Villages at Carino Commons," kept on file in the City of Chandler Planning Services Division, in File No. DVR04-12 The Village at Carino Commons, except as modified herein.

8. The landscaping in all open spaces and rights-of-way shall be maintained by the adjacent property owner or a homeowners' association.

9. Approval by the Director of Planning and Development of Plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Public Works for arterial street median landscaping.

10. Sign packages, including free-standing signs as well as wall-mounted signs, shall be designed in coordination with landscape plans, planting materials, storm water retention requirements and utility pedestals so as not to create problems with sign visibility or prompt the removal of required landscape materials.

11. The source of water that shall be used on the open space, common areas, and landscape tracts shall be reclaimed water (effluent). If reclaimed water is not available at the time of construction, and the total landscapable area is 10 acres in size or greater, these areas will be irrigated and supplied with water, other than surface water from any irrigation district, by the owner of the development through sources consistent with the laws of the State of Arizona and the rules and regulations of the Arizona Department of Water Resources. If the total landscapable area is less than 10 acres in size, the open space common areas and landscape tracts may be irrigated and supplied with water by or through the use of potable water provided by the City of Chandler or any other source that will not otherwise interfere with, impede, diminish,

reduce, limit or otherwise adversely affect the City of Chandler's municipal water service area nor shall such provision of water cause a credit or charge to be made against the City of Chandler's gallons per capita per day (GPCD) allotment or allocation. However, when the City of Chandler has effluent of sufficient quantity and quality which meets the requirements of the Arizona Department of Environmental Quality for purposes intended available to the property to support the open space, common areas, and landscape tracts available, Chandler effluent shall be used to irrigate these areas.

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

12. The applicant shall work with Staff to redesign the gas station fuel canopy to incorporate additional design features such as stepped horizontal massing relief and height variations.

13. The delivery traffic at the rear of the center shall be restricted to not occur between the hours of 11 p.m. and 6 a.m.

14. The landscaping along the entire north side of the commercial site shall be constructed with the first phase of the commercial center.

15. The applicant shall underground the well site utilities at the intersection to that extent possible as determined by Staff in coordination with the well owner and any other regulating governmental jurisdiction.

In response to a question from COMMISSIONER HEUMANN, Mr. Kurtz confirmed that one of the proposed stipulations calls for two rows of trees to be planted at 12-foot planting height to serve as a landscaped buffer on the northern side.

Ralph Pew, 10 West Main Street, Mesa, introduced the owner of the property, the developers, architects and representatives of the gas station. He commented on the fact that a lot of discussion took place at the last meeting relative to the fact that all four corners could potentially contain gas stations. He said that although that is true and possible, on the east side of the street, unless one or more of the small properties unify themselves with surrounding property on the corners and present a new shopping center plan (participate in the entire zoning process), it is very unlikely that either of those sites standing alone would be large enough to develop a gas station. He noted that there are right-of-way issues, landscaping issues and specific design criteria that make it almost impossible to develop a

gas station as a stand-alone on a 1.2 acre site. He added that although it is very unlikely that that would happen, there is always a possibility that it could but emphasized that they (the applicant) were the only ones at this time indicating an interest in developing a gas station and no other gas stations exist at this intersection.

Mr. Pew expressed the opinion that the project is well designed and integrates with a real nice shopping center. He noted that Staff has described the design of the center as being "commendable" and added that the gas station is an important component of the overall project. He said that another issues that was raised had to do with phasing and stated that they agree with the stipulation contained in the Staff Report that the entire northern boundary landscaping be installed with the first phase. In addition, the gas station operator will agree (by added stipulation) that pending the development of Phase II, the gas station will not operate between midnight and 5 a.m., it will not operate as a 24-hour operation until Phase II of the commercial center is developed. He noted that the proposal complies with the current 12,000 square foot requirement and stated the opinion that immediately following the completion of Phase I, Phase II will commence. He said this might not happen but their best guess is between 18 and 24 months for Phase II.

Mr. Pew discussed possible uses for shops in Major A and added that the other ancillary shops and the restaurants out front are very typical of neighborhood centers (video sales and retail, mailbox supplies, pool supplies, small unique ethnic restaurants, etc). He pointed out that Major B was on the first plan that was presented to the Commission and it had dashed lines around it as a building envelope. He explained that they compromised and got rid of that building when they added a second row of landscaping and moved the buildings farther away from the neighborhood because they could no longer accommodate Major B on the site plan and so it was deleted. He noted that the applicant is not interested in redesigning the gas station so that the pumps face inward. He advised that following the last meeting, he had a brief opportunity to visit with a group of neighbors who were downstairs after the meeting and said it is his understanding that the Commission will hear from the neighbors this evening that they are still opposed to the development of a gas station, particularly a reconfigured one with pumps facing inward.

Mr. Pew referred to an exhibit that depicted the location of the neighbors who vehemently object to this case and noted that the closest one (Parcel 19) is approximately 500 feet away. He added that 600 feet, half of another couple of lots are affected and then they get into the 700, 800, up to 1,000-foot range where a majority of the objections have been filed by homeowners and up to 1,500 feet away by multi-family tenants. He stated the opinion that there are no good reasons why the Commission should deny the request for gas dispensing at this location. He thanked the Commissioners for their time and expressed his willingness to respond to questions.

COMMISSIONER HEUMANN commented that one of the allowable uses is a specialty grocery store and asked for examples of this use. Mr. Pew responded that a store such as Sprouts would be one example. COMMISSIONER HEUMANN expressed concerns regarding certain stores that move into older centers where rents are lower. He added that he appreciated the applicant's willingness to limit the hours of operation.

ACTING CHAIR POLVANI stated that several speakers have indicated an interest in addressing the Commission and said she would like them to present their remarks at this time.

PAUL RANDOLPH. 292 West Raven, President of the Carino Estates Homeowners' Association, stated that the board met earlier this month and voted to support the residents who have taken a position against the placement of a gas station on this property. He added that they continue to oppose the development of a gas station at this location and stated the opinion that the site is not appropriate for this type of use.

ERIN SOUSA, 2880 South. Sunland Court, did not wish to speak but the Chair noted that her card indicated opposition to the development of a gas station at this location.

WAGNER SOUSA, 2880 South Sunland Court, also did not wish to speak but indicated in writing is opposition to the proposed gas station.

JERRI COUTTS, 2890 Sunland Court, commented on discussions with Mr. Kurtz regarding the other two County parcels which the residents believe could contain gas stations and said noted that preliminary approval has been given for a gas station across the street. She expressed the opinion that the site is inappropriate for a gas station and commented on negative impacts on the area that will result. She also stated concern regarding the overbuilding of gas stations that will result in businesses closing and empty, unsightly buildings remaining vacant on the corners.

JAN FIAKAS, 2631 South Emerson Street, said he opposed the development of the gas station and reported that all of the specialty grocers have declined to locate in this specific vicinity due to the lack of population in the area. He added that the development of a fitness center and a gas station at that location would create traffic safety hazards and said insufficient parking is available to accommodate all of the vehicles. He noted that gas stations and drive-through restaurants generate significant noise and urged the Commissioners not to approve the applicant's request and to support the neighbors in that area.

ACTING CHAIR POLVANI thanked the speakers for their comments.

MR. PEW commented that land use zoning issues should not be mixed with user issues and stressed that the only issue before the Commission this evening is whether the dispensing of gas is an allowable and reasonable use at this intersection. He added the question is not "how many gas stations are there?" but rather "is it a good use for that location?" He urged the Commission to approve the request and let the market decide whether the use is appropriate and needed.

In response to a request from COMMISSIONER HEUMANN. Mr. Pew clarified that he is saying that the recommendations the Commissioners forward to the Council should be based upon land use and not specific users.

COMMISSIONER HEUMANN commented that during the study session, they touched upon corners that have been approved and said one of the previous speakers mentioned that the Mobil station on Elliot and Dobson and another station on Chandler Boulevard & McClintock were approved long before the City's current ordinance. He noted that in those days they could build a gas station and nothing else with it. He asked Mr. Kurtz to review the locations where developments have been approved in accordance with the City's new ordinance (being able to build 12,000 square feet).

MR. KURTZ said that as a recommending body to the Council, Staff made recommendations that they found it inappropriate for implementing the General Plan to allow just a single building to be developed at the entrance to a shopping center. He added that the General Plan identifies that the shopping center is what they are supposed to seek and what they found with developments in north Chandler that were developed in the late 70's and 80's was sometimes the economic engine of those shopping centers was depleted by the fact that they had a high dollar/high value development at the intersection and it thwarted the development of the shopping center. He said that sometimes they would phase projects and the result was three or four years ago an ordinance was presented to Council that identified the minimum threshold of the first phase of a shopping center, 12,000 square feet. He stated that some phased shopping centers have been developed since that time, such as the one at the intersection of Warner and McQueen, a CVS store that is the first phase of a larger shopping center but to date, only the CVS has been built. He also discussed the intersection of Kyrene and Chandler Boulevard and said this project was also approved after the 12,000 square foot requirement was in place and it met that criteria and built a CVS along with a Wendy's, the first phase of the shopping center. He said he was not aware of any additional requests.

COMMISSIONER IRBY reiterated that this is a very nice project with a lot going for it and although he would like to see Phase I and Phase II built right away, he understands that that is not going to happen. He added that the overall project will all work well together and will be an excellent development for South Chandler. He stated the opinion that the gas station will be far away from the residents and will not result in the noise levels they are anticipating. He said he believes a gas station is needed at this location and added that he will vote in favor of the project.

COMMISSIONER HEUMANN stated that the architecture and layout of the project is very well done and added that he agreed with Mr. Pew's statement that it is not the Commission's job or Council's job to dictate what should go in the center. He added, however, that he also looks at it as the viability and potential of it down the road. He expressed concern relative to the uncertainty that exists as far as when the major tenant will go in. He said he is torn on this issue and appreciates some of the comments that he has heard.

In response to a question from COMMISSIONER HEUMANN, COMMISSIONER ANDERSON stated that trees do not create a substantial noise buffer, they serve more as a visual buffer (will buffer light).

ACTING CHAIR POLVANI expressed the opinion that the proposal is high quality and added that the location is appropriate for a gas station, particularly in view of the two six-lane roadways that will be in that area. She added that she supports the request.

COMMISSIONER ANDERSON said he was still torn but likes the idea of limiting the hours until Phase II comes on line. He stated that he looks at the eventual best use, not who goes into the center first, and noted that the applicant will have to come back before the Commission at a later time for PAD and PDP approval and they will have a chance to review both sides of the intersection at that time.

COMMISSIONER IRBY MOVED to approve DVR04-0012 THE VILLAGE AT CARINO COMMONS with all of the stipulations outlined by Staff and an additional stipulation (#16): "***The gas stations hours of operation will be restricted and shall not be open between 12 midnight and 5 a.m. until Phase II of the shopping center has been constructed."***

ACTING CHAIR POLVANI SECONDED the motion, which carried by majority vote (3-1) with Commissioner Heumann voting nay.

B. <u>APO3-0001 AIRPARK AREA PLAN AMENDMENT</u>

City initiated request to amend the permitted land use designations defined in Chapter 2.4 of the Airpark Area Plan. The proposed amendment would allow public assembly uses, including churches, public and private schools, fitness and recreation facilities, and conference facilities, to locate within a quarter-mile corridor along the east side of Arizona Avenue bound by Willis and Appleby Roads and Southern Pacific Railroad.

Planner 1 ASHLEY BAILEY addressed the Commission regarding this agenda item and said that it is a request to amend permitted land use designations within the Airpark Area Plan to allow public assembly uses and additional commercial uses along a portion of the east side of Arizona Avenue (a quarter mile wide north-south corridor between Arizona Avenue and Southern Pacific Railroad from Willis Road south to the quarter mile south of Queen Creek Road). She said that uses will include fitness and recreation facilities, conference facilities, public and private schools and churches. She noted that this application was continued by the Planning Commission at a previous meeting to allow Staff to provide additional information and analysis about the surrounding area adjacent to the subject area. The application requests approval to amend the permitted land use designations defined in Chapter 2.4 of the Airpark Area Plan.

MS. BAILEY reported that the City Council previously adopted a portion of the plan to allow a church to locate on 35 acres at the northeast corner of Arizona Avenue and Appleby Road. The remainder of the proposed amendment was continued for further Staff evaluation to determine land use correlation and compatibility, both future and existing, on the west and east sides of Arizona Avenue. Designated Commercial Nodes are not part of this application. The General Plan, Airpark Area Plan and Santan Freeway Corridor Area Plan designate acceptable land use classifications within the corridor. She noted that Staff has provided maps that show residential uses along the west side of Arizona Avenue as well as recent projects and residential development in the area. She stated that Staff believes that the public assembly uses provide a traditional land use and is compatible with adjacent commercial and residential uses. She added that Staff believes the amendment is important to encourage public assembly uses to locate in an area that will not hinder development in employment designated areas and will not hinder the development of industrial

areas on the east side of the tracks. She added that Staff finds the proposed amendment suitable to the corridor in that the aforementioned floor to area ratio (FAR) is less intense than the currently approved FAR designated in the Airpark Area Plan and will allow for additional compatible uses to locate along Arizona Avenue. The preponderance of existing residential uses further demonstrates the need for a transitional area to buffer the residential areas from the general industrial area on the east side of the Southern Pacific Railroad. The amendment will also satisfy the need for cost effective space and suitable areas for indoor fitness and recreational centers as well as charter schools that need to locate near their customer base.

MS. BAILEY reported that the land use amendment does not deteriorate the area's development potential as a Commercial/Office/Business Park and in fact it expands the potential compatibility uses that would contribute to the Area Plan's successful implementation. She stated that Staff recommends approval of the request as presented.

J. FORDEMWALT, 613 West Summit Place, a member of the Chandler Airport Commission and a pilot, expressed the Commission's concerns regarding the Airport Area Plan and encroachment, a common area around airports. He stated that about 250,000 operations a year are run out of the airport and stressed the importance of avoiding high density public assembly, churches, schools, etc. in the Airpark Area. He said those uses should be as far away from the airport as possible and that is the reason why the strip was put in in the first place. He stated that the Airport Commission has not taken a formal vote on this issue but they have held a number of informal discussions about this and they are pretty much unanimous in their opposition. He urged the Commission not to recommend approval of this agenda item.

COMMISSIONER HEUMANN asked whether the Commission's concern was the type of use or any use and MR. FORDEMWALT said the problem is having high density in that area. He said although it is extremely unlikely that a plane will crash, the likelihood does exist and therefore it is not an area where public assembly should be encouraged or allowed.

Additional discussion ensued relative to aircraft noise and the location of the approach and take-off patterns.

CHAIRMAN RYAN thanked Mr. Fordemwalt for his input.

COMMISSIONER HEUMANN said that whether offices or churches are built, the noise issue is a concern. He stressed the importance of continuing to notify people who are interested in buying homes/buildings in this area of the airport's close proximity and noise levels. He stated that he supports the amendment but emphasized that the airport is an economic engine and an asset for the City of Chandler.

VICE CHAIRMAN FLANDERS commented that he looks at the amendment as being good for the residents and people who will be working out there in the future. He added that it will eliminate some of the hazardous material items that were previously allowed and is a good step in the right direction.

COMMISSIONER HEUMANN MOVED to approve AP03-0001 AIRPARK AREA PLAN AMENDED as presented. The motion CARRIED UNANIMOUSLY (6-0).

7. <u>DIRECTOR'S REPORT</u> - No report.

8. CHAIRMAN'S ANNOUNCEMENT

The next meeting will be held on July 7, 2004 at 5:30 p.m. Chairman Ryan requested that anyone who will not be able to attend the meeting contact Staff so that they can ensure that a quorum will be present or reschedule the meeting.

9. ADJOURNMENT

The meeting was adjourned at 7:12 p.m..

_____
Phil Ryan, Chairman

_____
Douglas A. Ballard, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, July 7, 2004, held in the City Council Chambers, 22 S. Delaware Street.

1. Chairman Ryan called the meeting to order at 5:35 p.m.

2. Pledge of Allegiance lead by Chairman Ryan.

3. The following Commissioners answered Roll Call:

   Chairman Phil Ryan
   Vice Chairman Michael Flanders
   Commissioner Rick Heumann
   Commissioner Mark Irby

   Absent and Excused: Commissioner Jeanette Polvani, Commissioner Brett Anderson

   Also Present:

   Mr. Jeff Kurtz, Current Planning Manager
   Mr. Bob Weworski, Principal Planner
   Ms. Jodie Novak, Planner
   Mr. Kevin Mayo, Planner
   Ms. Ashley Bailey, Planner
   Mr. Glenn Brockman, Assistant City Attorney
   Ms. Kim Gehrke, Secretary

4. APPROVAL OF MINUTES

MOVED BY VICE CHAIRMAN FLANDERS to approve the minutes of the June 16, 2004 meeting with two corrections noted. Page 1, Section 5, Consent Agenda Items, first word should read 'Chairman Ryan advised ….' and page 4, Action Agenda, Item A., first sentence should read '….. he and Vice Chairman Flanders had potential….'. Seconded by COMMISSIONER HEUMANN. MOTION APPROVED UNANIMOUSLY (4 to 0).

5. CALL FROM THE CHAIR

CHAIRMAN RYAN states he is requesting that VICE CHAIRMAN FLANDERS call for this Special Meeting as the meeting is for an agenda item that he will be abstaining from.

VICE CHAIRMAN FLANDERS announces the Special Meeting of the Planning Commission is for Tuesday, July 13, 2004 at 7:00 p.m. There will be a Study Session prior to the meeting at 6:30 p.m. The topic of this meeting is the upcoming Auto Mall. VICE CHAIRMAN FLANDERS calls for the motion.

MOVED BY COMMISSIONER IRBY, seconded by COMMISSIONER HEUMANN, to hold a Special Meeting and Study Session of the Planning Commission as read by VICE CHAIRMAN FLANDERS. MOTION APPROVED UNANIMOUSLY (3 to 0) WITH CHAIRMAN RYAN ABSTAINING.

6. CONSENT AGENDA

CHAIRMAN RYAN announces to the audience that the Planning Commission had a Study Session prior to this meeting. A number of items are on the consent agenda. The Commission will vote on the consent agenda in one motion. Those items include A, B, C, D & E. Only item F is on the action agenda. At this time, the audience is given the opportunity to have any of these items pulled from the consent agenda.

CHAIRMAN RYAN states he will be abstaining from Item D, Chandler Santan Auto Park, as he was a consultant on this project.

CHAIRMAN RYAN requests that staff state the additional stipulations being recommended on the consent agenda items. JEFF KURTZ, Current Planning Manager, advised that staff is recommending three additional stipulations on Item A, AP04-0001/DVR04-0003/PPT04-0011 SOUTHSHORE TOWN CENTER. #18 states: ***The developer shall contribute twenty-five (25) percent of the cost for design and construction of a traffic signal at the intersection of Arizona Avenue and the new collector street.*** #19 states: ***Landscaping along the new collector street shall meet the Commercial Design Standards for arterial streets.*** #20 states: ***Provide shrubs to the landscape planter islands located in front of the Home Depot main entrance.***

MR. KURTZ continues that staff is recommending three additional conditions on Item B, DVR04-0007/PPT04-0005 VINA SOLANA. #14 states: ***A minimum twenty (20) foot separation shall be provided between two adjacent two-story homes.*** #15 states: ***Driveway access for lot 18 shall be restricted to the east side of the property.*** #16 states: ***The applicant shall work with staff to enhance the pilasters at the entry feature.*** Staff is recommending one additional condition on Item C, DVR04-0010 CHANDLER GATEWAY OFFICE PARK. #10 states: ***Sign panels on the monument signs shall have a decorative panel with tile or stone until a tenant name is located on the sign.*** Lastly, there are additional conditions on Item E, UP04-0018 LIVING BY THE WORD FAMILY CHURCH. #5 states: ***Playground area is subject to the approval of the Zoning Administrator.*** #6 states: ***No loud speakers at the rear of the building.*** #7 states: ***Perimeter landscaping shall be brought into current code compliance.***

CHAIRMAN RYAN calls for questions from the Commission on any of the added stipulations. COMMISSIONER HEUMANN asks staff if a stipulation is required on Item C pertaining to the discussion in Study Session of strengthening up the boulevards and looking at the overall landscaping for this project. MR. KURTZ responds a stipulation is not necessary; staff will be discussing these issues with the applicant.

A. *AP04-0001/DVR04-0003/PPT04-0011 SOUTHSHORE TOWN CENTER

APPROVED request for Area Plan amendment from Light Industrial and Hotel to Commercial, and rezoning from Planned Area Development (PAD) Light Industrial and Hotel to PAD to allow Commercial with Preliminary Development Plan (PDP) and Preliminary Plat approval for a commercial center on approximately 40 acres located at the southeast corner of Arizona Avenue and Ocotillo Road subject to the following conditions:

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Southshore Town Center", kept on file in the City of Chandler Planning Services Division, in File No's. AP04-0001 and DVR04-0003 except as modified by condition herein.

2. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.

3. Right-of-way dedications to achieve full, half-widths for arterial and collector streets, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.

4. Off-site improvements for Ocotillo Road shall include full, half-width right-of-way including two eastbound traffic lanes, raised landscape median, and one westbound traffic lane.

5. Undergrounding of all overhead electric (less than 69kv), communication, and television lines and any open irrigation ditches or canals located on the site or within adjacent right-of-ways and/or easements. Any 69kv or larger electric lines that must stay overhead shall be located in accordance with the City's adopted design and engineering standards. The aboveground utility poles, boxes, cabinets, or similar appurtenances shall be located outside of the ultimate right-of-way and within a specific utility easement.

6. Future median openings shall be located and designed in compliance with City adopted design standards (Technical Design Manual # 4).

7. Completion of the construction of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details, and design manuals.

8. The developer shall be required to install landscaping in the arterial street median(s) adjoining this project. In the event that the landscaping already exists within such median(s), the developer shall be required to upgrade such landscaping to meet current City standards.

9. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or a property owners' association.

10. The freestanding pads shall carry an architectural level of detail similar to front facades of main building.

11. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Public Works for arterial street median landscaping.

12. Sign packages, including free-standing signs as well as wall-mounted signs, shall be designed in coordination with landscape plans, planting materials, storm water retention requirements, and utility pedestals, so as not to create problems with sign visibility or prompt the removal of required landscape materials.

13. Sign panels on the monument signs shall have a decorative panel with tile or stone until a tenant name is located on the sign.

14. The source of water that shall be used on the open space, common areas, and landscape tracts shall be reclaimed water (effluent). If reclaimed water is not available at the time of construction, and the total landscapable area is 10 acres in size or greater, these areas will be irrigated and supplied with water, other than surface water from any irrigation district, by the owner of the development through sources consistent with the laws of the State of Arizona and the rules and regulations of the Arizona Department of Water Resources. If the total landscapable area is less than 10 acres in size, the open space common areas, and landscape tracts may be irrigated and supplied with water by or through the use of potable water provided by the City of Chandler or any other source that will not otherwise interfere with, impede, diminish, reduce, limit or otherwise adversely affect the City of Chandler's municipal water service area nor shall such provision of water cause a credit or charge to be made against the City of Chandler's gallons per capita per day (GPCD) allotment or allocation. However, when the City of Chandler has effluent of sufficient quantity and quality which meets the requirements of the Arizona Department of Environmental Quality for the purposes intended available to the property to support the open space, common areas, and landscape tracts available, Chandler effluent shall be used to irrigate these areas.

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

15. The approximately 14-acre commercial site is approved on a conceptual PAD status only and shall require separate Preliminary Development Plan application and approval.

16. The landscape plan, including streetscape design, shall be similar to and compliment landscaping in the Fulton Ranch commercial center at the southwest corner of Arizona Avenue and Ocotillo Road.

17. Landscaping shall be in compliance with the Commercial Design Standards.

18. The developer shall contribute twenty-five (25) percent of the cost for design and construction of a traffic signal at the intersection of Arizona Avenue and the new collector street.

19. Landscaping along the new collector street shall meet the Commercial Design Standards for arterial streets.

20. Provide shrubs to the landscape planter islands located in front of the Home Depot main entrance.

Staff recommends approval of the Preliminary Plat subject to the following condition:

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.

B. *DVR04-0007/PPT04-0005 VINA SOLANA

APPROVED request for rezoning from Agricultural District (AG-1) to Planned Area Development (Single-Family Residential) for an 18-lot custom single-family residential subdivision with Preliminary Plat approval for subdivision layout on approximately 9.06 acres located on the southeast corner of Cooper Road and Alamosa Drive subject to the following conditions:

1. Right-of-way dedications to achieve full half widths for adjacent streets, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.

2. Future median openings shall be located and designed in compliance with City adopted design standards (Technical Design Manual #4).

3. Completion of the construction, where applicable, of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details, and design manuals. The developer shall be required to install landscaping in the arterial street median adjoining this project to meet current City standards. In the event that the landscaping already exists within such median(s), the developer shall be required to upgrade such landscaping to meet current City standards.

4. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development, or take legislative action to cause the property to revert to its former zoning classification.

5. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled “Vina Solana” kept on file in the City of Chandler Current Planning Division, in file no. DVR04-0007, except as modified by condition herein.

6. The covenants, conditions and restrictions (CC & R's) to be filed and recorded with the subdivision shall mandate the installation of front yard landscaping within 180 days from the date of occupancy with the homeowners' association responsible for monitoring and enforcement of this requirement.

7. The landscaping in all open spaces and rights-of-way as well as all perimeter fences and view walls, shall be maintained by the adjacent property owner or homeowners’ association.

8. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls, and by the Public Works Director for arterial street median landscaping.

9. The source of water that shall be used on the open space, common areas, and landscape tracts shall be reclaimed water (effluent). If reclaimed water is not available at the time of construction, and the total landscapable area is 10 acres in size or greater, these areas will be irrigated and supplied with water, other than surface water from any irrigation district, by the owner of the development through sources consistent with the laws of the State if Arizona

and the rules and regulations of the Arizona Department of Water Resources. If the total landscapable area is less than 10 acres in size, the open space common areas, and landscape tracts may be irrigated and supplied with water by or through the use of potable water provided by the City of Chandler or any other source that will not otherwise interfere with, impede, diminish, reduce, limit or otherwise adversely affect the City of Chandler's municipal water service area nor shall such provision of water cause a credit or charge to be made against the City of Chandler's gallons per capita per day (GPCD) allotment or allocation. However, when the City of Chandler has effluent of sufficient quantity and quality, which meets the requirements of the Arizona Department of Environmental Quality for the purposes, intended available to the property to support. In the event the owner sells or otherwise transfers the development to another person or entity; the owner will also sell or transfer to the buyer of the development, at the buyer's option, the water rights and permits then applicable to the development. The limitation that the water for the development is to be owner-provided and the restriction provided for in the preceding sentence shall be stated on the final plat governing the development, so as to provide notice to any future owners. The Public Report, Purchase Contracts, and Final Plats shall include a disclosure statement outlining that the development shall use treated effluent to maintain open space, common areas, and landscape tracts.

10. The "Public Subdivision Report," "Purchase Contracts," and CC&R's shall include a disclosure statement outlining that the site is adjacent to agricultural properties that have horse and animal privileges and shall state that such uses are legal and should be expected to continue indefinitely.

11. No more than two adjacent homes along Alamosa Drive shall have identical roof ridgelines.

12. Homebuilder will advise all prospective homebuyers of the information on future City facilities contained in the City Facilities map found at www.chandleraz.gov/infomap, or available from the City's Communication and Public Affairs Department. The homebuilder shall post a copy of the City Facilities map in the sales office showing the location of future and existing City facilities.

13. No more than two two-story homes may be built side-by-side throughout the development.

14. A minimum twenty (20) foot separation shall be provided between two adjacent two-story homes.

15. Driveway access for lot 18 shall be restricted to the east side of the property.

16. The applicant shall work with staff to enhance the pilasters at the entry feature.

Staff recommends approval of the Preliminary Plat subject to:

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.

C. *DVR04-0010 CHANDLER GATEWAY OFFICE PARK

APPROVED request for rezoning from Planned Industrial District (I-1) to Planned Area Development (PAD) with Preliminary Development Plan (PDP) approval for a general and

medical office development on approximately 3.93 acres located at the southwest corner of McClintock Drive and Chandler Boulevard subject to the following conditions:

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Chandler Gateway Office Park" kept on file in the City of Chandler Planning Services Division, in File No. DVR04-0010, except as modified by condition herein.

2. Right-of-way dedications to achieve full half widths for adjacent streets, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.

3. Completion of the construction of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details, and design manuals.

4. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.

5. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls.

6. Sign packages, including free-standing signs as well as wall-mounted signs, shall be designed in coordination with landscape plans, planting materials, storm water retention requirements, and utility pedestals, so as not to create problems with sign visibility or prompt the removal of required landscape materials.

7. At the time of receiving necessary building permits and construction is about to proceed, the developer shall erect a 4 foot by 8 foot sign identifying what is being built and the estimated date of completion for the specified project. This information may be incorporated with the contractor's sign or the "Coming Soon" sign on the subject site.

9. Building signage shall be architecturally compatible with the development.

10. Sign panels on the monument signs shall have a decorative panel with tile or stone until a tenant name is located on the sign.

D. *DVR04-0022 CHANDLER SANTAN AUTO PARK

APPROVED request to continue rezoning from Agricultural District (AG-1) to Planned Area Development (PAD) Auto Park on approximately 102 acres with Preliminary Development Plan (PDP) approval for an automobile dealership complex for property located at the northwest corner of the Loop 202 Santan Freeway and Gilbert Road to July 13, 2004.

E. *UP04-0018 LIVING BY THE WORD FAMILY CHURCH

APPROVED request for Use Permit to operate a charter school within a Regional Commercial District (C-3) at 670 North Arizona Avenue, Suite 11, subject to the following conditions:

1. The Use Permit shall be approved for a period of one year, at which time re-application shall be required. The one-year time period shall begin from the date of City Council approval.

2. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.

3. Before and after school day care services provided by the school are restricted to those students who regularly attend the school. If the school were to expand the day care service for children beyond the school enrollment it would be necessary to submit an application to amend the Use Permit.

4. The Use Permit is non-transferable to other locations.

5. Playground area is subject to the approval of the Zoning Administrator.

6. No loud speakers at the rear of the building.

7. Perimeter landscaping shall be brought into current code compliance.

MOVED BY COMMISSIONER IRBY, seconded by VICE CHAIRMAN FLANDERS, to approve Consent Agenda items A-E with the additional stipulations outlined by Staff. MOTION APPROVED UNANIMOUSLY (4 to 0) WITH CHAIRMAN RYAN ABSTAINING FROM ITEM D.

ACTION AGENDA

F. UP04-0022 MATCHSTIX FINE CIGARS

JODIE NOVAK presented the case for staff. Matchstix Fine Cigars is a retail shop specializing in the sale of cigar products. It is located at 3305 W. Chandler Boulevard, Suite 1, within the Boulevard Shops; on the south side of Chandler Boulevard, and the north side of the ring road for Chandler Fashion Mall. The applicant is requesting approval for a Series 7 liquor license which allows on-site and off-site sale and consumption of beer and wine. The applicant is agreeing to restrict to-go package liquor sales and having beer and wine for consumption on the premises only. The property is approximately 1985 square feet and is a leased tenant space. The seating area provided is at the east end of the tenant space. There is a couch, several chairs, a small table with chairs, a large screen television, a counter area for draft beer, wine storage and an espresso coffee machine. The majority of the space is the retail sales area. The applicant is requesting approval of a Series 7 license to accommodate beer and wine service to the customers wishing to stay on-site after purchasing cigars. He is also requesting approval to have a small outdoor patio area with two tables and a maximum of 8 chairs in front of the business. The Boulevard Shops is part of the mall. There are several liquor licenses within that area. Staff does not feel there is a land use issue with this request and are recommending approval with conditions.

COMMISSIONER HEUMANN states he asked for this item to be pulled from the consent agenda because he is confused about the use. He asks if there are any other Series 7 licenses in this area. He is aware of 3 or 4 Series 12 licenses in the area. MS. NOVAK responds that within the Boulevard Shops there is a P F Chang's restaurant and three large retail shop buildings. There is also a Kangaroo Wines which is a specialty retail wine store. They have a Series 7 license.

COMMISSIONER HEUMANN asks if there is anywhere else in Chandler that has a Series 7 license strictly for a cigar or cigarette shop. He recalls a request from a smoke shop on Arizona Avenue that was disapproved. MS. NOVAK responds she is not aware of Series 7 licenses specifically that are associated with an establishment other than a retail store. There was one recently approved that is associated with a restaurant in the downtown area. MR. HEUMANN states that both Series 7 licenses in the downtown area are associated with restaurants. Food is their main business. COMMISSIONER HEUMANN asks staff if they are aware of any place in the metro area other than Chandler that has this type of use. MS. NOVAK responds she is not aware of any, however, the applicant may be aware of some since he is in this type of business.

COMMISSIONER IRBY asks staff to refresh their memory on what a Series 7 license requires versus a Series 12 or other type of license. MS. NOVAK responds a Series 12 license is a restaurant license. It requires an establishment to have 40% of it's sales in food. A Series 6 is a bar license. They are not required to have food sales. A Series 7 is related to restaurants or any type of retail. They are not required to have food but are not allowed to sell hard liquor. It is for beer and wine sales only for on-site or off-site consumption. A Series 10 is typically for a retailer such as a convenience store. COMMISSIONER IRBY asks if this license would allow the applicant to sell liquor to go. MS. NOVAK responds a Series 7 license would allow them to sell beer and wine products to go, however, the applicant does not intend to sell liquor to go and has agreed to a stipulation restricting this type of sale. COMMISSIONER IRBY comments he is not a smoker, however, he can see that someone patronizing the cigar shop might want to stay and have a drink also.

COMMISSIONER IRBY asks how the new smoking ordinance affects this type of business and do the requirements change when there is alcohol involved. MS. NOVAK responds it is her understanding that the new smoking ordinance comes into play when there are food sales, like with a Series 12; or when it is a Series 6 bar license. She doesn't believe it would affect a Series 7 license when there is no food involved. COMMISSIONER IRBY asks since there is no food involved does that mean they don't have to provide a separation between smokers and non-smokers. MS. NOVAK responds there may be other elements of the smoking ordinance, but because they don't serve food they would not have to provide separate areas for their customers.

COMMISSIONER IRBY states he assumes the exterior patio has to meet the State Liquor Board's requirements for guardrails etc., but does it also require a separate entrance. According to the plan it looks like you have to go outside of the store and then into the patio area. MS. NOVAK responds an outdoor patio area has to be requested on the State Liquor license. They have inspectors who determine if there is railing required or not. They usually do require railing. In terms of access, there only needs to be a separate access point to close off the area. She is not aware of any specific restrictions on the location of that access. Staff ensures there is enough access at and around that point so there isn't any inconvenience to pedestrians on the walkway. The applicant has conveyed he is not set on any particular location for the entrance and exit. The gate was proposed to be immediately to the right of the store's main entrance as you are leaving. COMMISSIONER IRBY asks if the Liquor Board of City Staff will be the ones defining that requirement. MS NOVAK responds the State Liquor Board will look at the requirements for a railing. She doesn't believe there are any City requirements determining where the gate opening can be located as long as it meets ADA requirements and does not interfere with any pedestrian walkway.

MR. CRAIG JONES, owner of Matchstix Cigars, 3305 W. Chandler Blvd. His shop is around 2,000 square feet. There are two seating areas. It's an upscale establishment. They have a nice couch, big screen TV, and an Espresso Bar. Ninety percent of cigar shopping is destination

shopping. Most customers come in, buy a cigar, and leave. But sometimes they want to have a glass of wine. They have a lot of customers who are waiting for a table at P F Chang's or another restaurant in the area and ask if they serve wine. This is what prompted him to request a liquor license. Not everyone will stay and have a glass of wine or a beer with their cigar. A lot of customers will still just buy their cigars and leave. He doesn't foresee a lot of alcohol sales; it's just there for the customers who would like it.

CHAIRMAN RYAN asks the applicant if this is the only store he owns and if it is a chain. MR. JONES responds this is the only store he owns and it's not a chain. CHAIRMAN RYAN additionally asks how the long applicant has been at this location. MR. JONES responds the store opened the end of February.

CHAIRMAN RYAN states it's not so much the liquor use permit he has concerns with, it's the patio area with the combination of liquor and cigars. Some people would find that offensive; probably more the cigar smoke than the liquor. Cigar smoke can travel quite a distance. MR. JONES responds he has an end unit and there is a delivery way to the right of his space. He doesn't feel that would be an issue because of where the seating area is located. He could see this might be a problem if his shop was in the middle, but on the other end 'My Big Fat Greek Restaurant' is going in and they also have a gated off area. Across from him, Pasta Pomodoro has an area where customers can drink and smoke outside. P F Chang's has an outside area also, but you can't smoke there.

CHAIRMAN RYAN asks the applicant if Westcor is aware of his proposal. MR. JONES responds they are aware and do not have a problem with it.

COMMISSIONER IRBY states he works in downtown Tempe not far from a cigar shop that has outdoor seating. He asks the applicant if he has talked to the Liquor Board to find out how this outside area meets their requirements. MR. JONES responds it has to be gated off with a separate entrance so minors cannot access the area. COMMISSIONER IRBY asks if it requires direct access from the store. MR. JONES responds that it doesn't.

COMMISSIONER HEUMANN asks the applicant if he is aware of any other cigar store in the valley that serve liquor. MR. JONES responds he thinks there is one in Scottsdale, Cigar King. It's a private club but one thing he found out going through the liquor license process was that liquor licenses are public licenses. Cigar King is located in the Kierland Common area off of Scottsdale Road. COMMISSIONER HEUMANN additionally comments that the staff report notes there is only one employee. He asks the applicant how he will be able to control liquor out front with just one employee. MR. JONES responds he will be hiring additional staff once he gets approval for liquor. He does see the necessity for additional staff and has already talked to several people about working at his store.

CHAIRMAN RYAN asks the applicant if he would ever want to expand his hours of operation. MR. JONES responds he wouldn't. He stays open the latest on Wednesday, Friday and Saturday. Wednesday because he has cigar night, and Friday and Saturday because he caters to the people waiting to get into P F Chang's. CHAIRMAN RYAN asks if he would be okay with the Commission adding a stipulation that he must maintain his current hours of operation or come back for a new Use Permit. MR. JONES responds he thinks that would be fair. It is not his intention to turn his shop into a bar. He invites the Commission to visit his store to see how it is set up.

COMMISSIONER HEUMANN asks staff how many liquor permits are within a half-mile radius of this location. There appears to be around 35. MS. NOVAK responds there are probably 35 to 40 in this area.

COMMISSIONER HEUMANN states one of the reasons he asked for this item to be pulled was to try and get some direction from City Council. Several weeks earlier Planning Commission approved a permit that was denied at Council. He is trying to get a handle on how many is enough in an area. There are probably over 30 Series 12 licenses in this area and several Series 7's. He would like to have a better feeling going forward when there are continuous liquor use permits coming to the Commission.

CHAIRMAN RYAN comments sometimes Council views things totally different than the Commission does. He recommends Commissioner Heumann discuss his concerns with Council members one on one. He continues he doesn't know if you reach a saturation point with liquor use permits. There are a lot of restaurants in this vicinity. He feels the Commission should just look at the use and if it's appropriate then make the motion and let Council decide.

COMMISSIONER HEUMANN states this is an unusual use. He is very familiar with the other cigar stores around town and none of them sell alcohol. The issue becomes is it a bar or an accessory type situation. With more employees, there will be liquor served out front and in the back without any food or wine tasting being involved. He has a concern with this.

COMMISSIONER IRBY states they are a recommending body to City Council so he doesn't worry about what they may or may not approve. He states his opinion and lets Council agree or disagree with his perspective. He feels this cigar shop is a new concept and may or may not be successful.

COMMISSIONER HEUMANN agrees that they are a recommending body to Council but he would like the direction a little clearer so it doesn't become a gray area.

CHAIRMAN RYAN suggests that if the other Commissioners feel that this is an unusual case, they might want to include a time stipulation when the motion is made. Right now there is no time stipulation. That would be one way to review a case that wasn't quite the norm.

VICE CHAIRMAN FLANDERS comments he thinks this is a unique use. He likes the idea of one business playing off of another. It gets people into the shops to see what they have.

MOVED BY VICE CHAIRMAN FLANDERS, seconded by COMMISSIONER IRBY, to approve UP04-0022 MATCHSTIX FINE CIGARS without a time stipulation. MOTION CARRIED BY MAJORITY (3 to 1) WITH COMMISSIONER HEUMANN OPPOSED.

7. DIRECTOR'S REPORT

None.

8. CHAIRMAN'S ANNOUNCEMENT

The next meeting will be a Special Meeting Tuesday, July 13, 2004 at 7:00 p.m. in the Council Chambers.

9. ADJOURNMENT

The meeting was adjourned at 6:12 p.m.

_____
Phil Ryan, Chairman

_____
Douglas A. Ballard, Secretary

MINUTES OF THE SPECIAL MEETING OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, July 13, 2004, held in the City Council Chambers, 22 S. Delaware Street.

1. Chairman Ryan called the meeting to order at 7:00 p.m.

2. Pledge of Allegiance lead by Commissioner Irby.

3. The following Commissioners answered Roll Call:

   Chairman Phil Ryan
   Vice Chairman Michael Flanders
   Commissioner Jeanette Polvani
   Commissioner Rick Heumann
   Commissioner Mark Irby

   Absent and Excused: Commissioner Brett Anderson

   Also Present:

   Mr. Doug Ballard, Planning & Development Director
   Mr. Jeff Kurtz, Current Planning Manager
   Mr. Kevin Mayo, Planner
   Mr. Glenn Brockman, Assistant City Attorney
   Ms. Kim Gehrke, Secretary
   Mr. Harry Paxton, Economic Development Specialist
   Mr. Mike Mah, City Transportation Engineer

4. ACTION ITEMS:

CHAIRMAN RYAN announces he was the landscape architect on the project being presented this evening and will be abstaining from this case. The meeting is turned over to Vice Chairman Flanders.

A. DVR04-0022 CHANDLER SANTAN AUTO PARK

KEVIN MAYO presented the case for staff. DVR04-0022 Chandler Santan Auto Park is a request for rezoning from Agricultural District, AG-1, to Planned Area Development, PAD, Auto Park with Preliminary Development Plan approval for a six-automobile dealership complex on approximately 102 acres located at the northwest corner of Gilbert Road and the future Santan Freeway, Loop 202. The General Plan identifies this property as Regional Commercial. The Land Use designation of Regional Commercial can provide for commercial centers that can include major regional commercial uses such as malls, power centers and other major commercial developments. The parcel also falls within the College Area Plan, the Airpark Area Plan and the Santan Freeway Corridor Area Plan. All three of these Area Plans identify the parcel as Regional Commercial. The request to rezone does comply with the General Plan and all three area plans. The request is to rezone the property from AG-1 to PAD Auto Park. Under the PAD Auto Park designation uses permitted include motor vehicle dealerships and all uses associated with vehicle sales including, but not limited to, new and used vehicle sales, leasing, service, mechanical repairs, auto body repairs, wash, storage, display and all other auto dealership related uses. The

request also includes a Preliminary Development Plan. This request is for site layout, project landscaping, development standards, architectural standards and a comprehensive sign package. As stated earlier, the request is for a six-auto dealership master site layout. Five of the dealerships front onto Gilbert Road, the sixth fronts onto Willis Road. The Preliminary Development Plan includes a landscape package. The perimeter landscaping will be entirely installed in Phase 1. It includes an improved landscape theme and palette that the individual dealerships will use as a development guide when they come in for their individual approvals. Twenty-five foot date palms are utilized along the perimeter at Pecos, Gilbert and Willis Roads. These date palms will provide a sense of grandeur and a level of continuity throughout the project. Extensive turf is used around the perimeter as well, through the availability of reclaimed water. The Preliminary Development Plan also includes development standards. Architectural elevations for the individual dealerships are not provided as the dealerships have not been selected or identified. However, development standards and architectural material standards are included to serve as the quality standards for the PDP. The development standards identify building setbacks, height regulations and maximum lot coverage. The architectural standards outline the requirements for architectural building forms and include an approved building material list. Each dealership will be required to process final development plans through staff for administrative approval. Staff is comfortable with the architectural expectations placed on the dealerships for two reasons. The building forms and site design are critical in the showcasing of automobiles and this will provide a high level of architectural quality. Additionally, each dealership is designed to cater to specific brands and specific segments of the population, thus providing a natural diverse street scene. A comprehensive sign package is also included with the Preliminary Development Plan. It includes two 60-foot tall freeway pylon signs along the 202; one 60-foot tall freeway pylon sign with a reader board; four 18-foot tall multi-tenant monument signs along Pecos, Gilbert and Willis; and individual dealership monument signs which are also 18 feet tall. If any dealership has more than 300 feet of street frontage, they are allowed to have an additional monument sign. On lot 5, the dealership shall be permitted, at its option, to provide four 8-foot monument signs in lieu of the two 18-foot monument signs. These standards are all identified within the Council-approved Development Agreement and are consistent with it. Two neighborhood meetings have been held. Through Staff input and concerns raised at the neighborhood meetings, the applicant has modified the proposal to include the following: Willis Road, which currently stops at Arizona Impressions and the future Rancho Del Ray subdivision, will be extended to Gilbert Road. A modified smaller cross section is proposed to naturally slow cars down and two 90° turning movements have been added to also provide natural traffic calming. The extension of Willis Road is seen as a positive to add easy freeway access for the future Rancho Del Ray subdivision, Arizona Impressions, the Pecos Aldea subdivision, and the other subdivisions further west to Cooper. Once the freeway is completed, you will not be able to make a left turn heading westbound on Willis Road to access the freeway. This extension of Willis will provide easy access without forcing them to go up to Cooper, Pecos, or make U-turns. Along lot 6 on the west property line, adjacent to the Arizona Impressions subdivision, the landscape buffer has been expanded from 20 feet to 40 feet. It will also include a staggered two-row line of screen trees planted every fifteen feet on center to provide as much buffering as possible for the residences most affected by this development. Along the west property lines of lots 1 thru 4, screen trees will be planted every 20 feet on center. It is important to note that no lots in the Rancho Del Ray subdivision actually back onto or side onto this development along lots 1 thru 4. There is either the Norman Way right-of-way and/or additional landscape tracts that add buffering to the neighborhood. The applicant has agreed to the addition of Stipulation #9 which reads: "It shall be the responsibility of each dealership to post a 'test-drive' policy within their building, informing each employee that test-drives shall not be permitted within the adjacent neighborhoods." This stipulation was added to make each dealership responsible for informing their employees that test-drives are not permitted within the neighborhood to help mitigate traffic

and neighborhood concerns. Stipulation #10 reads: "Outdoor loud-speaker PA systems shall not be permitted within the auto dealerships." Through technology, everything is now done with pagers and hand held intercom systems so there is no need to have a PA system paging employees. Stipulation #12 reads: "The City shall install signs along Willis Road which state test-drives shall not be permitted within the residential neighborhoods, when deemed necessary." The City is considering posting signs along Willis Road to discourage any dealership employees who may want to take test-drives in this area. All these stipulations have been added to mitigate neighborhood concerns. Staff supports this request. The land use is less intensive for a regional commercial development. Traffic generation is more than 50% lower than an equivalent shopping center. The dealerships will be closed by 9 or 10 at night. A shopping center could have uses that are open 24 hours. Additionally, during the night dealerships go down to security lighting which will have less impact on the neighbors but still provide enough security. As stated earlier, the completion of Willis Road is a positive benefit through the development. The Airport Commission determined through the Airport Conflicts Evaluation Process that there are no conflicts with this development and the operation of the airport. Staff is also recommending the approval of Stipulation #14 which reads: "The signage for individual dealers shall be reviewed by staff to ensure quality and compatibility." Through the design of the monument signs, staff wants to ensure a certain level of quality and consistency. Staff finds the request to be consistent with the General Plan, subsequent area plans, and the Council-approved Development Agreement, therefore recommends approval.

COMMISSIONER HEUMANN asks staff how they will enforce Stipulation #12; prohibiting test-drives within residential neighborhoods. MR. MAYO responds staff will have to rely on the neighborhoods to inform the City if this is occurring, and the City will inform the dealerships.

MR. MIKE WITHEY, 2525 E. Arizona Biltmore Circle, Phoenix, representing DP 40, LLC. which is the developer of this project. He is accompanied by their team of consultants. Tonight is the result of a lot of work by the developer and city staff. The site is at the northwest corner of Gilbert Road and the 202 Freeway. It is designated Regional Commercial on the General Plan. He feels there was a lot of expectation that this site would be developed with another 'big box' type power center. Originally, the developer looked at that idea and came up with what they think is the ideal solution; the Auto Park. The Auto Park is consistent with the General Plan. There are a number of benefits with the Auto Park versus a big box retail center. There should be significantly less square footage and significantly less buildings with a car dealership than with a big box shopping center. There will also be less traffic. This proposal will create 50% or less traffic than what would be created by a standard shopping center. They also have provided a better buffer for the nearby residential areas. Generally on a big box retail center you would have the larger big box retailer located at the rear of the site, in this case, at the far west perimeter, with the loading area right behind it. In the Auto Park setting, the buildings are closer to the frontage road. They don't put their loading areas and a lot of other activity at the rear of the site which is generally used for retention and storage. They feel they will be able to provide much better building setbacks. In addition, they are providing the landscape setbacks as well as the 8-foot screen wall. They have met with two groups of neighbors. Jackson Properties immediately to the west and north of lot 6. They understood it was Regional Commercial and knew something would be going in. After showing them their plans, they wrote a letter to staff supporting the Auto Park proposal. They also met with the residents immediately adjacent to the west of lot 6, the Arizona Impressions neighborhood. These residents directly back up to the site. After meeting with them, they not only agreed to provide the 8-foot screen wall, but also to have it match the color of their wall to tie the two walls in together. They also agreed to match the wall color with the Jackson Properties subdivision. They also agreed to a 40-foot landscape setback with the Arizona Impressions residents. These provisions are part of their submittal. They also

agreed to have 36-inch box Evergreen trees within the landscape setback. Based on these additions, the residents of Arizona Impressions have also submitted letters of support to staff. They believe this proposal is of exceptional quality and will be one of the finest Auto Parks in the valley and the southwest. The landscape plan includes mature Date Palms which will set a theme for the project. In addition, there are significant entry features. They agree with the staff stipulations as proposed.

VICE CHAIRMAN FLANDERS asks the applicant if Jackson Properties is disclosing the Auto Mall proposal to potential buyers. MR. WITHEY responds he believes they are. They have met with Jackson Properties and have given them exhibits at their request. In addition, he is aware staff has received phone calls from potential buyers in this area which corroborates that this proposal is being disclosed. VICE CHAIRMAN FLANDERS asks if there is any signage on the property now. MR. WITHEY responds there are two different type signs on the property now. There is the regular orange sign notifying the public of a zoning request. He believes there are four of these signs on the property. The City put up a sign before this request was filed notifying residents that the property was designated Regional Commercial on the General Plan.

COMMISSIONER HEUMANN asks staff if Jackson Properties would have to change their public report or have some type of notice on site about the Auto Mall. MR. MAYO responds they have a 24 x 36 inch display of the master site plan and landscape plan up. In the past 3 to 4 weeks, he has received 10-12 calls from prospective homebuyers who had been out to the Jackson Properties site and they said they had been informed of the Auto Mall and just wanted additional information from staff.

COMMISSIONER IRBY asks the applicant to clarify what the freeway requirement for a sound wall is for lot 6. MR. WITHEY responds that he will report what ADOT has told him, however, the ultimate decision about where the sound wall is constructed would be up to ADOT. They have been told that the approved sound wall runs the length of the Arizona Impressions neighborhood and then extends another 500 feet. The sound wall is to protect the neighborhood from the freeway noise. COMMISSIONER IRBY asks if the wall would have to go further to protect the Jackson Properties subdivision from freeway noise. MR. WITHEY responds that neighborhood is not immediately adjacent. He believes ADOT's policy is to provide a sound wall when there is single-family adjacent residents. In this case, they did extend the wall.

COMMISSIONER IRBY asks staff if the City starts getting phone calls from residents that there are cars being test-driven in their neighborhood, what action will the City take to address this issue. MR. MAYO responds the citizens would contact Neighborhood Services, who in turn would notify the dealerships. COMMISSIONER IRBY asks if there is some limit to the amount of complaints a dealership could get before they're fined or there is some other action. MR. KURTZ responds there is no absolute methodology to stop test-drives through the neighborhood. The City does have a commitment from the developer and the dealers that will be their policy. The test-drives that may occur and aggravate the residents are potential buyers. It's not in the dealerships interest to do anything to upset potential buyers. It's a common practice by auto dealerships to try and be neighborhood friendly. The City will do what they feel would be effective should the incident ever occur.

COMMISSIONER IRBY refers to an exhibit that shows the left turn off Gilbert Road. It doesn't look like the drive lines up with the left turn lane. Staff responds it is just a graphics error.

COMMISSIONER HEUMANN comments that he feels the decibel level in the neighborhoods is ADOT's responsibility. He asks if ADOT has researched this enough to know that the Jackson

Properties site will not be affected by the freeway noise. MR. KURTZ responds when the Jackson Properties site was rezoned, a sound study was done specifically for that development. This sound study, done in accordance with ADOT's standards and practices for noise studies, did not indicate the requirement for any additional wall other than what was planned by ADOT to protect that development. Because of the distance separation from the freeway and the particulars of the freeway at that point, it is on its way underground at that point, there was no noise protection required for this development.

COMMISSIONER HEUMANN asks if it would be possible to add a stipulation that if test-drives through the neighborhoods becomes a continued problem, that the developer is required to provide some type of traffic calming device so the City doesn't have to pay for it somewhere down the road. MR. KURTZ responds a stipulation would be appropriate, keeping in mind that only a portion of Willis Road is adjacent to this project. A much larger portion of Willis Road will become the City's responsibility for traffic calming. There have already been measures taken through this plan to provide traffic calming; the narrowing of the cross-section and the multiple turns required as opposed to a straight road. It would also be appropriate to require the development to provide traffic calming adjacent to its property should the need arise.

MR. WITHEY responds they would have a potential problem with this type of stipulation. They don't anticipate any traffic for their development on Willis Road. There were discussions about whether Willis Road should go through. They left it up to the City and the residents to look at that issue because it wasn't significant for their development. The decision was made to leave it open for general circulation purposes and to give the existing residents access to the freeway without having to cut through their own neighborhood or go way out of their way. He feels the City made the correct decision in this matter because the residents he has talked to expressed a desire to see it open. They have agreed to a different type of cross-section and landscaping, but feel that if something has to happen to Willis Road in the future, whether its traffic calming or another issue, it should be the City's responsibility. He doesn't feel that it would be because of traffic being generated from this development.

COMMISSIONER HEUMANN states the Auto center will be a good neighbor and this issue may never arise, but if it does, he is trying to protect the City so 5 years down the road if there is a problem, it doesn't come back on the City.

MR. WITHEY states the Auto Park intends to be a good neighbor but in terms of the obligations of this development, he feels they are carrying their weight with the City.

At this time, CHAIRMAN FLANDERS calls on audience members wishing to speak on this item.

MR. DAVE CHRISTIANSEN, 5891 W. Orchid Lane, Chandler, states he came to this meeting to hear details on the Auto Mall and from what he's heard he believes this is the best land use for this site. It's well thought out, well designed and it adheres to what is best for the General Plan. As a citizen, he applauds Chandler for moving forward, and he hopes Commission and Council will agree with the staff recommendation.

MS. DANI MADDOX, 497 N. Superstition Springs Blvd., Chandler, states she has been following the issues with this project and has seen the plans for the Auto Mall. She doesn't see how this project would hurt the city in any way. The development seems to be in line with the City's General Plan. The Auto Mall looks like it would be less intrusive than a large shopping

center. She also feels it would generate needed revenue for the city. She supports this project, as do her neighbors. She encourages the Commission to recommend approval.

MR. DAN MARTIN, 195 N. Cottonwood St., Chandler, states he fully supports this project and is all for Chandler's growth. It leads to more jobs and a stronger economy.

MS. DEBORAH HUXEL, 5520 W. Commonwealth Place, Chandler, states she came to the meeting to learn more about the project. She thinks it looks like a good plan and she totally supports the project. She feels the added tax revenue will be good for Chandler.

MS. KORTNI HAGE, 2201 N. Comanche Dr., Chandler, states she has been following the development of the Auto Mall and has come here tonight as a resident who cares about the City. She believes Chandler is doing the right thing protecting the infrastructure of the growing City by accepting projects such as this. The consequences of not having this project in Chandler are significant. The loss of this revenue would put at risk critical city services such police and fire protection. Now that she has seen the plans for the Auto Mall, she feels even more strongly that this is the right move for the City of Chandler. It's good for the neighborhood and good for the City. She urges Commission to move forward with this proposal.

MS. REBECCA SEYMANN, 2771 W. Kent Drive, Chandler, states she came to see this presentation to learn more about the developments going on in Chandler. Based on the presentation, she feels this site is an ideal choice for the Auto Mall. Without this project, money needed to build parks and maintain recreation programs may be lost. For her family's sake, she would not like to see that happen. This is the best use of land and the best option for the City. She asks Commission to move this project forward.

MR. REED COX, 2421 E. Remington Place, Chandler, in the Pecos Aldea subdivision. He is not particularly in favor of this project, but feels better after seeing the information tonight. He is concerned because he doesn't think their subdivision was contacted. Although they are not really abutting this project, the southern end of their subdivision will be affected by the traffic, lights, etc.. He doesn't know what the regulations are for contacting neighborhoods but feels their subdivision probably should have been contacted. If his subdivision was contacted, he was not aware of it. Most of the discussion tonight has been about the new subdivision and Arizona Impressions to the south. At least the residents south of Hawkins and east of Cottonwood should have been noticed. He feels if this is not part of City policy, it is a flaw. There should be a larger notice area.

VICE CHAIRMAN FLANDERS asks Mr. Cox to identify where his house is located on an aerial map exhibit.

MR. COX additionally comments that Willis Road is already somewhat of a racetrack; from the dead end down to Cooper Road. He feels it will become even more so when it goes through to Gilbert Road. He feels the traffic will be a problem and at some point will come back on the City.

VICE CHAIRMAN FLANDERS asks staff if Mr. Cox's neighborhood was notified. MR. MAYO responds the Homeowner's Association for Pecos Aldea was notified. The balance of the properties fall outside the 300-foot notification requirement area. VICE CHAIRMAN FLANDERS asks if there was any type of presentation made to the HOA. MR. MAYO responds there is going to be a presentation made at the HOA's next meeting which is July 21st.

COMMISSIONER HEUMANN asks staff if the homes catty-cornered to the northwest corner of this parcel were within the 300-foot notice area. MR. MAYO responds this area was outside of the 300-foot notification area except for some landscape tracts. MR. WITHEY states they did notice all property owners within the 300-foot requirement. That did include some property owners in the southeast corner of the Pecos Aldea subdivision. They also contacted the management company and said they would like to meet with the HOA, and they suggested going to their next Board meeting in July. COMMISSIONER HEUMANN asks if the July meeting is before this case goes to City Council or is it after the fact. MR. MAYO responds it is after the case goes to City Council. MR. WITHEY states that they offered to meet with them earlier; and offers to meet with Mr. Cox after this meeting and give him any information he would like.

COMMISSIONER IRBY comments according to the map, it appears that only around 7 houses in this subdivision fall within the 300-foot notice area. Additionally he states that sometimes the 300-foot area doesn't go quite far enough. He asks staff to look at that requirement and perhaps expand it when appropriate.

VICE CHAIRMAN FLANDERS asks if there is anyone else in the audience wishing to speak on this item.

MS. EMILY RICHARDS, 2407 E. Flintlock in the Pecos Aldea subdivision. She states that she is on the Pecos Aldea HOA Board and will talk to Mr. Cox after the meeting. She is also purchasing one of the new Jackson Properties homes. She commended Mr. Mayo and any other involved staff who worked on this project. All her concerns have been addressed. She feels this project is better than other things that could have gone in here. She agrees with Mr. Cox, she would have preferred that Willis Road not go through. She bought her Jackson Properties home before any signs were up. She didn't know it was going to be an Auto Mall. Although it is on the Regional Plan, they were never told. They were told it was agricultural and would probably be changing to something else at some point. MS. RICHARDS asks if the developer has any responsibility to tell prospective buyers what is on the General Plan.

MR. KURTZ states he will not be able to answer this question directly. There are certain real estate regulations requiring disclosure that developers and homebuilders are to provide. What an area is planned for doesn't always meet the statutory needs of what the developer is required to do. The City is making a concerted effort to get information out to the public. It is certainly a responsibility of the buyer and the homebuilder to the extent required by law and good practice of development.

VICE CHAIRMAN FLANDERS comments that the City of Chandler, and most other cities, have a General Plan. Sometimes it's a good idea to go into the city when you are looking at new homes and talk to them about what is going in.

COMMISSIONER IRBY asks about lighting levels where it abuts residential properties. MR. MAYO responds the development will have to meet City Code which has a maximum of one candle foot of light at the property line.

COMMISSIONER HEUMANN comments that staff should probably send a letter to Jackson Properties about disclosure even though it sounds like they already have something up. Then the City will be on record of having notified them about making full disclosure to potential homebuyers.

MR. KURTZ responds that staff has taken great steps towards that already. As soon as Council adopted the Development Agreement on this property staff provided written notice and also had verbal conversations with Jackson Properties. Staff has taken further steps to have the applicant provide them with a site plan to be displayed. Staff would be glad to do anything else they need to.

MOVED BY COMMISSIONER HEUMANN, seconded by COMMISSIONER POLVANI, to approve DVR04-0022 CHANDLER SANTAN AUTO PARK with the addition of Stipulation #14 as read by staff and adding Stipulation #15 "If, in the future, traffic calming devices are necessary on the developer's portion of Willis Road, those will be paid for by the developer." MOTION CARRIED UNANIMOUSLY (4 to 0) WITH CHAIRMAN RYAN ABSTAINING.

5. DIRECTOR'S REPORT

None.

6. CHAIRMAN'S ANNOUNCEMENT

The next regular meeting is July 21, 2004 at 5:30 p.m. in the Council Chambers.

9. ADJOURNMENT

The meeting was adjourned at 7:53 p.m.

_____
Phil Ryan, Chairman

_____
Douglas A. Ballard, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, July 21, 2004, held in the City Council Chambers, 22 S. Delaware Street.

1. Chairman Ryan called the meeting to order at 5:35 p.m.

2. Pledge of Allegiance lead by Commissioner Polvani.

3. The following Commissioners answered Roll Call:

   Chairman Phil Ryan
   Commissioner Mark Irby
   Commissioner Rick Heumann
   Commissioner Jeanette Polvani
   Commissioner Brett Anderson

   Absent and Excused: Vice Chairman Michael Flanders

   Also Present:

   Mr. Jeff Kurtz, Current Planning Manager
   Mr. Bob Weworski, Principal Planner
   Ms. Jodie Novak, Planner II
   Ms. Ashley Bailey, Planner
   Mr. Thomas Ritz, Planner
   Mr. Joshua Cook, Planner
   Mr. Glenn Brockman, Assistant City Attorney
   Ms. Linda Porter, Clerk

4. APPROVAL OF MINUTES

   MOVED BY COMMISSIONER HEUMANN, seconded by COMMISSIONER IRBY to approve the minutes of July 7, 2004 Planning and Zoning Commission meeting. MOTION WAS APPROVED UNANIMOUSLY by those voting.

   MOVED BY COMMISSIONER IRBY, seconded by COMMISSIONER HEUMANN to approve the minutes of the July 13, 2004, special Planning and Zoning Commission meeting. MOTION WAS APPROVED UNANIMOUSLY by those voting.

5. CONSENT AGENDA

   To the audience, Chairman Ryan explained that the entire agenda, with the exception of Item "J" were on the Consent Agenda. He stated that the Commission had met earlier and decided that they had reviewed the cases and would leave Items A-I on the Consent Agenda. There would be one motion made to approve all the items on the Consent Agenda. Chairman Ryan stated that if anyone wanted to pull any one of the items off the agenda for discussion, to raise their hand. There were no hands shown.

   Chairman Ryan asked JEFF KURTZ, CURRENT PLANNING MANAGER, to read the additional stipulations that were added to certain items.

Mr. Kurtz stated that there was a recommendation for a revision to Stipulation No. 10 on Item A. The condition would read:

10. "***One additional pedestrian amenity shall be incorporated into the landscape setting and fence element along Cooper Road."***

For Item "B", three additional stipulations:

14. ***"The applicant shall work with staff to enhance landscaping at the intersection and entrances to provide a unique corner feature and sense of entry."***
15. *"**Additional architectural details shall be added to the gable ends of the roof."***
16. ***"An architecturally compatible bus shelter shall be provided."***

For Item "D", an additional condition, Condition No. 19, which shall read:

19. ***"No more than 50% of the homes along the Eastern Canal shall be two story, and there shall be no more than 2, two-story homes side-by-side along the Eastern Canal."***

Item "F", staff is recommending a revision to Stipulation No. 1, which would read:

1. "***The Use Permit shall be extended for one year, at which time reapplication shall be required. The one-year time period shall begin from the date of City Council approval."***

Item "H", staff recommends a revision to Stipulation No. 1, which would now read:

1. ***"The Use Permit is for a Series 12 License only, and any change in type of license shall require reapplication and a new Use Permit approval. The Use Permit shall be extended for two years at which time reapplication shall be required. The two-year time period shall begin from the date of City Council approval".***

Chairman Ryan asked if anyone in the audience wanted to discuss further the added stipulations on the Consent Agenda. There was no response.

A. <u>DVR03-0037 NORTHWEST RIGGS AND COOPER 2</u>

APPROVED, a request for rezoning from Agricultural District (AG-1) to Planned Area Development (PAD) with Preliminary Development Plan (PDP) approval for a general and medical office development on approximately 2.8-acres located at the northwest corner of Riggs and Cooper Roads.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "<u>Northwest Riggs and Cooper 2</u>" kept on file in the City of Chandler Planning Services Division, in File No. DVR03-0037, except as modified by condition herein.
2. Right-of-way dedications to achieve full half width for Riggs and Cooper Roads, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.

3. Completion of the construction of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details, and design manuals.
4. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.
5. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls.
6. Sign packages, including free-standing signs as well as wall-mounted signs, shall be designed in coordination with landscape plans, planting materials, storm water retention requirements, and utility pedestals, so as not to create problems with sign visibility or prompt the removal of required landscape materials.
7. At the time of receiving necessary building permits and construction is about to proceed, the developer shall erect a 4 foot by 8 foot sign identifying what is being built and the estimated date of completion for the specified project. This information may be incorporated with the contractor's sign or the "Coming Soon" sign on the subject site.
8. The source of water that shall be used on the open space, common areas, and landscape tracts shall be reclaimed water (effluent). If reclaimed water is not available at the time of construction, and the total landscapable area is 10 acres in size or greater, these areas will be irrigated and supplied with water, other than surface water from any irrigation district, by the owner of the development through sources consistent with the laws of the State of Arizona and the rules and regulations of the Arizona Department of Water Resources. If the total landscapable area is less than 10 acres in size, the open space common areas, and landscape tracts may be irrigated and supplied with water by or through the use of potable water provided by the City of Chandler or any other source that will not otherwise interfere with, impede, diminish, reduce, limit or otherwise adversely affect the City of Chandler's municipal water service area nor shall such provision of water cause a credit or charge to be made against the City of Chandler's gallons per capita per day (GPCD) allotment or allocation. However, when the City of Chandler has effluent of sufficient quantity and quality which meets the requirements of the Arizona Department of Environmental Quality for the purposes intended available to the property to support the open space, common areas, and landscape tracts available, Chandler effluent shall be used to irrigate these areas.

   In the event the owner sells or otherwise transfers the development to another person or entity, the owner will also sell or transfer to the buyer of the development, at the buyer's option, the water rights and permits then applicable to the development. The limitation that the water for the development is to be owner-provided and the restriction provided for in the preceding sentence shall be stated on the final plat governing the development, so as to provide notice to any future owners. The Public Report, Purchase Contracts, and Final Plats shall include a disclosure statement outlining that the development shall use treated effluent to maintain open space, common areas, and landscape tracts.
9. Signage shall be halo illuminated, reverse pan channel letters.
10. **One additional pedestrian amenity shall be incorporated into the landscape setting and fence element along Cooper Road.**

B. <u>DVR04-0014 POLLACK PROFESSIONAL PLAZA</u>

APPROVED, a request for rezoning from Agricultural District (AG-1) to Planned Area Development (PAD) with Preliminary Development Plan (PDP) approval for a general and medical office development on approximately 1.8-acres located at the northwest corner of Alma School and Frye Roads.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Pollack Professional Plaza" kept on file in the City of Chandler Planning Services Division, in File No. DVR04-0014, except as modified by condition herein.
2. Right-of-way dedications to achieve full half widths for adjacent streets, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.
3. Undergrounding of all overhead electric (less than 69kv), communication, and television lines and any open irrigation ditches or canals located on the site or within adjacent right-of-ways and/or easements. Any 69kv or larger electric lines that must stay overhead shall be located in accordance with the City's adopted design and engineering standards. The aboveground utility poles, boxes, cabinets, or similar appurtenances shall be located outside of the ultimate right-of-way and within a specific utility easement.
4. Future median openings shall be located and designed in compliance with City adopted design standards (Technical Design Manual # 4).
5. Completion of the construction of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details, and design manuals.
6. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.
7. The developer shall be required to install landscaping in the arterial street median(s) adjoining this project. In the event that the landscaping already exists within such median(s), the developer shall be required to upgrade such landscaping to meet current City standards.
8. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls.
9. At the time of receiving necessary building permits and construction is about to proceed, the developer shall erect a 4 foot by 8 foot sign identifying what is being built and the estimated date of completion for the specified project. This information may be incorporated with the contractor's sign or the "Coming Soon" sign on the subject site.
10. Sign packages, including free-standing signs as well as wall-mounted signs, shall be designed in coordination with landscape plans, planting materials, storm water retention requirements, and utility pedestals, so as not to create problems with sign visibility or prompt the removal of required landscape materials.
11. Sign panels on the monument signs shall have a decorative panel with tile or stone until a tenant name is located on the sign.
12. Within 30 days of the effective date of the Final Adoption of the rezoning ordinance, the applicant shall post a 4' x 8' sign for property zoned for commercial and/or multi-family use, conspicuous to the (existing or prospective) single-family subdivision that adjoins this site, advising the following: "This property has been zoned for other than single-family use. Current information regarding the development potential can be obtained from the City of Chandler Planning Services Division, (480) 782-3000". Sign shall have white background and black lettering.

13. The developer shall provide a 10 foot wide by 30 foot long concrete bus shelter pad located no more than 100 feet west of the intersection as part of the site frontage improvements.
14. The applicant shall work with staff to enhance landscaping at the intersection and entrances to provide a unique corner feature and sense of entry.
15. Additional architectural details shall be added to the gable ends of the roof.
16. An architecturally compatible bus shelter shall be provided.

C. DVR04-0018 GREEN HILLS PARK SENIOR LIVING COMMUNITY

APPROVED, a request for action on the existing Planned Area Development (PAD) zoning to extend the conditional schedule for development, remove, or determine compliance with the two year schedule for development or to cause the property to revert to the former Planned Area Development (PAD) zoning classification. The existing Planned Area Development zoning is for an assisted living facility on approximately 7 acres. The property is located at the southwest corner of Alma School Road and Frye Road.

D. DVR04-0015 / PPT04-0008 EAGLE GLEN I

APPROVED, a request for initial City of Chandler zoning of Planned Area Development (PAD) along with Preliminary Development Plan approval for the subdivision layout only and Preliminary Plat approval for a 107-lot single-family subdivision on approximately 38 acres. The average lot size is approximately 7,900 square feet. The property is located at the northwest corner of the Eastern Canal and the Ryan Road alignment.

1. Right-of-way dedications to achieve full half widths for 140th Street, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.
2. Undergrounding, if applicable, of all overhead electric (under 69KV), communications and television lines and any open irrigation ditches or canals located on the site or within adjacent right-of-ways and/or easements in accordance with City adopted design and engineering standards.
3. Completion of the construction, where applicable, of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details, and design manuals.
4. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development, or take legislative action to cause the property to revert to its former zoning classification.
5. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled “Eagle Glen I” kept on file in the City of Chandler Current Planning Division, in file no. DVR04-0015, except as modified by condition herein.
6. The covenants, conditions and restrictions (CC & R's) to be filed and recorded with the subdivision shall mandate the installation of front yard landscaping within 180 days from the date of occupancy with the homeowners' association responsible for monitoring and enforcement of this requirement.
7. The landscaping in all open spaces and rights-of-way as well as all perimeter fences and view walls, shall be maintained by the adjacent property owner or homeowners’ association.

8. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls.
9. The homes shall have all copper plumbing lines for those lines under pressure.
10. The source of water that shall be used on the open space, common areas, and landscape tracts shall be reclaimed water (effluent). If reclaimed water is not available at the time of construction, and the total landscapable area is 10 acres in size or greater, these areas will be irrigated and supplied with water, other than surface water from any irrigation district, by the owner of the development through sources consistent with the laws of the State if Arizona and the rules and regulations of the Arizona Department of Water Resources. If the total landscapable area is less than 10 acres in size, the open space common areas, and landscape tracts may be irrigated and supplied with water by or through the use of potable water provided by the City of Chandler or any other source that will not otherwise interfere with, impede, diminish, reduce, limit or otherwise adversely affect the City of Chandler's municipal water service area nor shall such provision of water cause a credit or charge to be made against the City of Chandler's gallons per capita per day (GPCD) allotment or allocation. However, when the City of Chandler has effluent of sufficient quantity and quality, which meets the requirements of the Arizona Department of Environmental Quality for the purposes, intended available to the property to support. In the event the owner sells or otherwise transfers the development to another person or entity; the owner will also sell or transfer to the buyer of the development, at the buyer's option, the water rights and permits then applicable to the development. The limitation that the water for the development is to be owner-provided and the restriction provided for in the preceding sentence shall be stated on the final plat governing the development, so as to provide notice to any future owners. The Public Report, Purchase Contracts, and Final Plats shall include a disclosure statement outlining that the development shall use treated effluent to maintain open space, common areas, and landscape tracts.
11. The "Public Subdivision Report", "Purchase Contracts", and CC&R's shall include a disclosure statement outlining that the site is adjacent to agricultural properties that have horse and animal privileges and shall state that such uses are legal and should be expected to continue indefinitely.
12. No more than two adjacent homes along collector streets, canals, or public open spaces shall have identical roof ridgelines.
13. Homebuilder will advise all prospective homebuyers of the information on future City facilities contained in the City Facilities map found at www.chandleraz.gov/infomap, or available from the City's Communication and Public Affairs Department. The homebuilder shall post a copy of the City Facilities map in the sales office showing the location of future and existing City facilities.
14. The tot lot shall be a minimum of 20 total play stations.
15. The same front elevation shall not be built on adjacent or opposite lots.
16. Staggered front and rear building setbacks for adjacent house locations shall occur throughout the entire subdivision.
17. When two-story homes are built on adjacent lots, a 20-foot separation of the two-story elements shall be provided between homes.
18. The side yard setbacks shall be a minimum of 5 feet and 10 feet.
19. **No more than 50% of the homes along the Eastern Canal shall be two story, and there shall be no more than 2, two-story homes side-by-side along the Eastern Canal.**

Staff recommends approval of the Preliminary Plat subject to:

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.

E. PDP04-0012 ADVANCED MEDICAL PLAZA SIGN PACKAGE

APPROVED, a request for Preliminary Development Plan approval to amend the development standards to allow a freestanding monument sign to have four tenant names on each sign face and establish standards for signs on the building. The property is located at 725 South Dobson Road.

1. The design of the sign shall be modified to add additional colors and materials to the monument sign that reflect the variety of materials and colors found on the building. Staff recommends repainting the angular element on the south side of the sign to match the contrasting color appearing on the angular element found on the building, repeating the window shade steel awning details found on the south elevation as a repeating element on the sign face, and modifying the present single color sign face with colors appearing on the building's sides and rear.
2. A planter base around the monument sign installed to provide an accent to the sign. Such planter base shall be in addition to the existing landscaping found in front of the building. Within the planter wall incorporate contrasting dark blocks reflecting the pattern shown on the building's west elevation.
3. Additional landscape plantings, including a 24-inch box Palo Brea tree, matching the plantings found at the pedestrian entrance to the building, shall be added to frame the existing sign.

F. UP04-0013 EVDI MEDICAL IMAGING

APPROVED, a request for Use Permit extension approval for a mobile Positron Emission Tomography (P.E.T.) Scanner unit continue to be parked outside of EVDI Medical Imaging facility at 1076 W. Chandler Blvd.

1. **The Use Permit shall be extended for one year, at which time reapplication shall be required. The one-year time period shall begin from the date of City Council approval.**
2. Substantial expansion, modification beyond the approved exhibits, or increase in number of days temporary unit is on site shall void the Use Permit and require a new Use Permit application and approval.

G. UP04-0021 PESTO'S PIZZA

APPROVED, a request for Use Permit approval to sell liquor (Series 12 Restaurant License) at a restaurant at 1960 West Ray Road, Suite 3.

1. The Use Permit is for a Series 12 license only, and any change in type of license shall require reapplication and new Use Permit approval.
2. Expansion beyond the approved Floor Plan shall void the Use Permit and require new Use Permit application and approval.
3. The Use Permit is non-transferable to any other store location.

H. UP04-0024 MY BIG FAT GREEK RESTAURANT

APPROVED, a request for Use Permit approval to sell liquor (Series 12 Restaurant License) at a restaurant at 3305 West Chandler Blvd., Suite 8.

1. **The Use Permit is for a Series 12 License only, and any change in type of license shall require reapplication and a new Use Permit approval. The Use Permit shall be extended for two years at which time reapplication shall be required. The two- year time period shall begin from the date of City Council approval.**
2. Expansion beyond the approved Floor Plan shall void the Use Permit and require new Use Permit application and approval.
3. The Use Permit is non-transferable to any other store location.
4. All gates shall be ADA compliant.

I. PPT04-0007 CROSSROADS TOWNE CENTER

APPROVED, a request for Preliminary Plat approval for a commercial shopping center located at the northwest corner of Gilbert Road and Germann Road.

MOTION BY COMMISSIONER HEUMANN, seconded by **COMMISSIONER IRBY,** to approve the Consent Agenda with additional stipulations as read into the record. **MOTION WAS APPROVED (5-0).**

6. ACTION AGENDA

J. ZCA04-0001 ZONING CODE AMENDMENT – LATE HOUR BUSINESSES

City Initiative to amend Chapter 35 (Zoning Code) of the Chandler City Code, by revising Article II, Section 200, adding a definition for "Late Hour Business," and by revising Article XVII, Section 1702, Permitted Uses, pertaining to permitted uses within a Planned Area Development zoning designation and the specific requirements pertaining to late hour businesses.

HANK PLUSTER, LONG RANGE PLANNING MANAGER, presented the case for staff. He explained that this item is a Zoning Code Amendment, a City Initiative, and more to the point, a City Council directive to amend the Zoning Code. It has to do with late-hour businesses. This amendment would require any Commercial use that falls in that definition to get a specific approval by Mayor and Council through a regular public hearing process, very much like a Use Permit, a public notice, going through the Planning and Zoning Commission process for recommendation, and ultimately, action and decision by Mayor and Council.

As background, Mr. Pluster stated that Mayor and Council began visiting this issue with staff at the April 8th Council meeting. Their concern stems primarily for Commercial sites that back up to neighborhoods adjoining residential zoning. It is Mr. Pluster's belief that Mayor and Council may have been approached by frustrated residents after zonings, after PDP approvals, not fully knowing what might be going in next door to them. Mayor and Council want some opportunity for affected neighbors to still have some input, and for Council to be able to receive that input in a venue that still counts, i.e., still a decision-making process. Mr. Pluster believes a lot of the frustration stems from the fact that at the time of zoning approval or PDP approval, it's not certain exactly what the occupancy is going to be, even years later the tenants the occupancy may change.

The definition that staff came up with for the purpose of the amendment is:

> ***Late-hour businesses are defined as any retail, restaurant, convenience store, commercial service, entertainment, or drive-thru use that customarily opens its doors to the public, either in whole or in part, one (1) or more hours between midnight and 6:00 a.m., one (1) or more days each week. This category shall not include hospitals and medical care facilities, hotels, bars, self-storage uses, transportation services, day care, group homes, construction activity, or utility companies.***

Mayor and Council were clear to staff that they did not want to trigger industry, but rather Commercial things that are open to the public during these hours. Staff chose the hours of midnight to 6 a.m. as being the most sensitive hours. In directing staff, Council wanted staff to do several different parts of research. Part of the research was to inventory what is currently operating in the City that would fall under this category. At least 475 businesses around the City were surveyed that were believed to fall under this category and under this new definition. It was found that about 150 operating right now would be in this category. A great majority are zoned PAD. PAD zoning is a citywide practice and has been for the past 20+ years.

One of the other parts of the research had to do with a distance trigger, how close or how far away should a given late-hour business be from residential before it would get triggered. Various distances were looked at. Staff arrived at a distance of 300 feet. This distance was chosen because it would account for the variables, i.e., a service bay, a loading bay in the back of a shopping center, the width of a service drive, a screen wall, a landscape strip, and at least one and probably two depths of lots. That would be lots from residences' back yards. Staff felt that 300' would be a legitimate distance trigger.

Mr. Pluster also noted that another part of the research was to look at the regulations from other cities. He went on to discuss the regulations for Gilbert, Scottsdale, and Fountain Hills, as well as out-of-state cities, San Jose, CA., Costa Mesa, CA., and Milwaukee, WI.

Mr. Pluster pointed out that some of the key points of the ordinance are: it applies to PAD zoning citywide whether it's a new or old area. Not only if the zoning is there today, but what may be zoned 5 years now, if a subsequent late-hour business comes in, it could be triggered and have to go through the process. The late hour uses would be triggered within 300' of residential zoning, whether it's multi-family or medium density single family. One of the other exceptions to the 300' rule are pads separated by arterials or non-residential buildings, they would not be affected.

Mr. Pluster pointed out that another key point is that the process of a late hour business applying for approval by Council would be exactly the same as that of a Use Permit, i.e. sign posting on the property, written notice mailed to adjoining property owners, public hearing by the Planning Commission and subsequent recommendations to Council for final action. He added that among the considerations to be made when acting upon any application would be the impacts of noise, exterior lighting, air quality, litter, outdoor activities, hours of delivery, schedule of on-site maintenance/clean-up, public safety, and other externalities vis-à-vis the applicant's plans to mitigate those impacts.

Mr. Pluster noted that upon adoption of the proposed amendment, any late hour business legally operating at the time could continue to do so (would be legally non-conforming or "grandfathered"). He added that any expansion or change in intensity would trigger the

requirement for specific approval by the Council. He stated that an existing business meeting the same location criteria that subsequently changes its hours to then fall under the category of "late hour" would also have to obtain specific approval from the Council. He informed the members of the Commission that the length of time necessary to seek specific approval for a late hour business can be mitigated in some instances, i.e. the developer of a shopping center or other commercial site seeking rezoning and/or PDP approval may also request the specific approval for late hour use(s) at the same time, simply to cover that possibility. He said that in such an instance, both applications could be processed concurrently and no additional process time would be necessary. He added that although an individual tenant wanting to occupy a suite or space within an existing center would have to spend the time necessary for obtaining Council approval, that same tenant would have the option of occupying the space and conducting business provided he/she did not operate "late hours" prior to Council approval. He noted that the Use Permit process, as referenced in the proposed amendment, normally requires at least three to four months.

Mr. Pluster reported that this item was advertised in accordance with State Statutes and Staff also sent a notice and copy of the draft text to the Chamber of Commerce and to Valley Partnership as well as to that segment of the City's developer clientele most involved with commercial projects in the City (shopping center developers, commercial leasing agents and land attorneys). He added that Staff made a presentation to the group of representatives organized for the April 28th meeting and later to the Chamber of Commerce Public Policy Committee. He reported that they have received some but not a lot of input back and stated the opinion that the underlying reason for the proposal is recognized and understood. He requested that the members of the Commission recommend to the Council that the proposed draft text be approved as outlined.

Chairman Ryan thanked Mr. Pluster for his presentation. He noted that the City has had a number of quasi restaurants that could almost be interpreted as being bars and said it is difficult at times looking at a floor plan to determine the function of the specific use. He commented that the proposal would not require bars to go through the process and asked how Staff plans to define what a bar actually is compared to a restaurant that serves alcohol.

Mr. Pluster responded that Staff will rely on the license criteria set forth by the State (bar or restaurant license), noted that they would still come forward for a liquor Use Permit, and explained that Staff is not concerned about those that have some sort of liquor serving and food service together since the liquor part of it would have to apply for a liquor Use Permit anyway.

Commissioner Irby said that the City of Scottsdale has regulations for bars when they extend their hours past the liquor sales and asked why Staff is not proposing a similar requirement. Mr. Pluster responded that if a Scottsdale after-hours business would like to stay open beyond 2 a.m., in accordance with the new State Statute that will be in effect in approximately one month, no longer serving liquor but remaining open to provide some sort of service/entertainment, then the regulations would be triggered and noted that it

would also be triggered under the proposed ordinance for the City of Chandler. He added that for any liquor Use Permit, Staff will be looking at whether any other extension exists, i.e. entertainment, food service, beyond 2-2:30 a.m. and if they do, the proposed regulations would be triggered.

Commissioner Irby commented on the fact that the proposal exempts transportation services and Mr. Pluster explained that that includes taxis, busses, and van transport, which are going to be in the arterial streets where some type of noise/disruption is anticipated. He added that Staff will need to ensure that the proper buffers are in place to accommodate and mitigate associated noises. Mr. Pluster also noted that a simple cosmetic remodeling within the businesses' current space would not require application for an after hours permit. He emphasized that Staff supports renovation efforts and would not want to restrict efforts expended in this important area.

Commissioner Heumann asked whether the proposed regulations would place an unfair burden on just those particular businesses (bars). Mr. Pluster explained that the liquor serving use would still require a Use Permit and said that just a different type of permit would be required. He noted that either way those businesses have to come forward for a Use Permit. He added that the Commission has the authority to recommend that the proposed ordinance be amended to allow businesses that do not serve liquor (delicatessens, small restaurants) to also remain open until 2:30 a.m. He stated that Staff based the proposed time restrictions (midnight to 6 a.m.) on regulations in effect throughout the country but added that that does not mean the hours cannot be changed.

In response to a question from Commissioner Heumann relative to whether clear cut definitions will be in place to ensure fairness in the process, Mr. Pluster said that Staff's recommendations are always based on land use externalities and nothing beyond that. He added that Staff, on a very consistent basis, makes those kinds of decisions based on those physical things.

Commissioner Anderson asked whether the proposed regulations would apply to deliveries to facilities that would be closed, i.e. grocery stores and similar businesses that close before midnight but allow deliveries between the hours of midnight and 6 a.m. Mr. Pluster responded that they would not and said that by definition the businesses' doors must be open to the public.

Commissioner Heumann stated that grocery stores, etc. that want to be open after midnight would have to apply for a permit and noted that at times hours of delivery have been regulated. He asked why deliveries by semi-trucks, which can generate a substantial amount of noise, were not regulated. Mr. Pluster stated that the larger stores that receive deliveries via semi-trucks are designed to buffer the noise to begin with and go through the zoning and PDP process to ensure that the noise impacts are mitigated. He added, however, that a larger grocery store that comes in later with a request for a significant addition would fall into this category and trigger the regulations.

Chairman Ryan stated that Ralph Pew has filled out a request to speak and asked that he come forward at this time.

Ralph Pew, 10 West Main Street, Mesa, stated that he was at the meeting on behalf of Wal-Mart stores. He thanked Mr. Pluster for forwarding the notice to them and giving them some advance notice regarding the late hour issue. He said that they have looked at it a little, although not in great detail, and have a couple of questions and suggestions that they would like the Commission to consider either in their recommendation to Council or if they decide to take more time to deliberate this issue and continue it to another date.

Mr. Pew referred to Paragraph 2a of the proposed ordinance and said it states that the regulations apply at the time of requesting an occupancy permit and stated the opinion that the ordinance, if approved and adopted, will apply to many developments that today are on-going, in the final platting, building permit and under construction stages. He said the proposed ordinance would require those businesses to come back and go through the Use Permit process. He encouraged the members of the Commission to adopt the ordinance in some form but make it apply to all those projects that do not have zoning and PDP approval at the time the late hour ordinance becomes effective. He said that Wal-Mart has two projects that are currently in process and that have gone through the issues of timing and hours already. He stated that those issues were already resolved and those projects should not have to repeat the process.

Mr. Pew added that under Paragraph 2b, the 300-foot separation between the building wall of the late hour use, it states "any residential use." He expressed the opinion that a better definition is required and asked whether that meant property that is zoned for residential purposes. He added that if so, there could be a site that is adjoining some old R1-43 or large lot holding pattern zone that may be designated in the General Plan for employment, industrial or commercial uses and not constitute a residential use but in accordance with the proposal would be zoned residential. He said that this portion of the ordinance requires further clarification. He stressed the importance of not inadvertently adopting an ordinance that causes someone to go through the Use Permit process when what is going to happen within 300 feet of them is not going to be a neighborhood.

Mr. Pew also addressed the issue of multi-family uses and said if Staff is trying to require that a building that is closer than 300 feet from a multi-family apartment complex to obtain a Use Permit. He questioned whether that was really important and, if so, emphasized the importance of clarification. He added that should the Commission choose to continue this item, he would be wiling to work with Staff on the language and thanked the Commissioners for the opportunity to address them.

Chairman Ryan thanked Mr. Pew for his comments.

In response to a comment from Commissioner Heumann relative to the fact that the two Wal-Marts currently under construction may be out of the 300-foot limit, Mr. Pew responded that he has not had the opportunity to look at that closely and said there could

also be other neighborhood centers that could be involved. He said they were talking in general terms regarding the ordinance.

In response to a request for input from the Chairman, Mr. Pluster advised that the Wal-Mart facility proposed for Arizona Avenue and 202 would not trigger the ordinance because it is separated by an arterial street, Pecos Road, and railroad tracks on the east side of the site. He said he didn't believe that the Gilbert and Santan side would trigger the regulations either since there was no adjoining residential zoning to that site.

Mr. Pluster commented that projects that are currently in the process, although they may have recently gone through the zoning and PDP process, Staff may not know who or what the occupant is going to be. He explained that the directive given to Staff was to create some sort of venue to ensure that regulations are in place to address that use and therefore they would trigger the regulations. He also responded to Mr. Pew's comments regarding residential zoning, including multi-family zoning, Staff would recommend that the applicant request a blanket approval at the time of zoning. He said that if the adjoining zoning is going to be residential, the regulations should be triggered, but if it is known that the zoning will be employment or another non residential land use, then the applicant could ask for approval up front and eliminate having to go through another process.

Mr. Pluster commented on the exclusions and referred the Commissioners to the definitions and said they might want to make the language more specific by adding language to the very last line where they say "*this category shall not include hospitals and medical care facilities, hotels, bars, self-storage uses, transportation services, day care, group homes, construction activity or utility companies*" and including "*office uses and industrial uses*."

Commissioner Heumann noted that an MCI call center that would have three shifts operating all the time would generate traffic that could disturb residents at 2 a.m. and questioned why a business such as that would be excluded. Mr. Pluster stated that Staff followed the direction they were provided and added that they have to rely on the fact that the zoning and PDP process will ensure that adequate buffering and noise mitigation are in place.

Commissioner Heumann also discussed hours of operation and questioned whether businesses that state in their application that their hours of operation would be 10 a.m. to 11 p.m. would be held to those hours or, because of the impending State Statute, they would be allowed to operate until 2:30 a.m. Mr. Pluster responded that if the Liquor Use Permit states that the business will close at 11 p.m. but they decide to remain open later, the City would not be able to regulate the hours of operation from a licensing standpoint, since that is regulated by the State, but if they find a different land use externality exists, then that could trigger amending their Use Permit for liquor.

Chairman Ryan stated that another speaker wished to address the Commission and asked him to come forward at this time.

Ed Bull, 702 East Osborne, said that he agreed with Mr. Pluster's suggestion that industrial and office uses be included in the exemptions. He added that late night traffic to and from an office building would typically be employee traffic (one trip in and one trip out) and said that office and industrial uses do not fit into the "open doors to the public" category. He noted that there are going to be restaurants that want to remain open after midnight and open before 6 a.m. that do not in their normal nature sell or want to sell liquor (a deli, a breakfast place, a donut shop, etc.) and said those uses are compatible and appropriate and asked that the Commission consider excluding restaurant uses as well.

Mr. Pluster explained that Staff's rationale for including restaurants was based on the fact that restaurants do have an impact aside from liquor uses, typically as a result of air exhaust, and commented on complaints that are received relative to smells resulting from the exhaust fumes. He recommended that the restaurants not be exempted from the regulations.

Commissioner Heumann agreed with Mr. Bull that the proposal places an unfair burden on businesses such as a Starbucks or a donut shop that might generate significant volume in terms of traffic because they would be required to obtain a liquor license in order to remain open or go through an extra step. He added that there are businesses out there (bagel shops, etc.) that open early and said he believes the proposal would place an unfair burden on them by framing it to say "before 6 a.m." He said there are a lot of shifts that come into play, particularly during the summer time, and stated that that is his concern. He emphasized the importance of protecting businesses that may want to relocate in Chandler.

Mr. Pluster responded that the proposed hours could be modified and said that the stipulations can state that uses such as coffee shops, bakeries, and others that are perfectly compatible as a result of zoning and PDP processes, are permitted. Mr. Pluster commented that convenience stores that sell liquor can remain open until 2 a.m. but they still would require a liquor Use Permit.

Chairman Ryan asked whether anyone else in the audience wished to comment on this agenda item.

Mark Osborne, 825 East Lawrence, Phoenix, addressed the members of the Commission and stated that he represented Jack in the Box restaurants. He expressed the opinion that restaurants with liquor licenses, in accordance with the proposal, would be treated differently than traditional restaurants that do not have liquor licenses. He stated concern regarding this issue and said that establishments that serve liquor have other issues just because of the nature of liquor and noted that traditional fast food restaurants do not have those same kinds of issues. He recommended that input from the Restaurant Association be obtained regarding this proposal and said he would be happy to work with Staff on the various issues of concern.

Chairman Ryan stressed the importance of understanding the system in Chandler and said they did not want to be redundant so if there is a restaurant with a liquor permit, that would automatically trigger it to come before the Commission and City Council for approval. He added that at that time they would review the hours of operation and impacts on adjacent properties. He said it would redundant to require those businesses to come back a second time for the purpose of reviewing hours of operation, since it would be done in accordance with the liquor Use Permit process. He commented that the proposal would add staff time and impact the Commission as well but said that he believed in most cases only one out of twenty of the cases that come before them will actually be a problem case. He commended Staff on their efforts.

Discussion ensued relative to the date the State Statute regarding hours of operation will go into effect; the fact that if approved by the Commission at this meeting, the ordinance would be presented to the Council (introduction) at their August 12th meeting and action would occur on August 26th with an effective date of September 26th; the fact that until that time, any business could change their hours of operation; the fact that if the businesses are already in operation they are "grandfathered in" and the ordinance would not apply to them; the fact that if the businesses changed their hours of operation to between midnight and 6 a.m., that would trigger an application for specific approval by Council; the fact that for reasons other than liquor (food, entertainment, etc.) and the ordinance could require those businesses to come forward.

In response to a comment from Commissioner Irby, Mr. Pluster stated that certain businesses such as bakeries, donut shops and restaurants could be excluded from the category.

Chairman Ryan expressed the opinion that if the ordinance passes one or two of the late hour business applications will be received every two weeks and they will appear on Consent Agendas unless they are controversial. He added that any business that is going to operate beyond midnight, with their front doors open and within 300 feet of a residential property, should be reviewed. He asked how the neighbors would receive notification and Mr. Pluster advised that it would be virtually impossible to contact everyone affected but legal ads would be placed in the newspapers and media coverage would assist. He said beyond that, cable television could be utilized as well as utility billing messages but noted they might not coincide timing wise with the issues at hand.

Chairman Ryan commented that although the front doors may not be open, the real impact could be deliveries through the back doors and noted that any retail store or restaurant could stock at night. He added that it would be a difficult thing to police. Mr. Pluster noted that if a business is simply stocking their store but is not open for business, it would not fall into this category.

Additional discussed ensued relative to what causes more disruption and noise for the neighborhoods, grocery use back end versus the front side; the possibility of exempting restaurants; pursuing the Restaurant Association's input, as suggested by Mr. Osborne, and coming back at a later time to further discuss this issue; the fact that the cost of the

Use Permit would be an additional $300 and other impacts on businesses; and a recommendation from the Chairman that Staff take a further look at this issue, solicit input as recommended, and bring back recommendations to the Commission for their review and consideration.

Chairman Ryan said that he believes the ordinance overall is a good one and said that postponing its consideration for a couple of weeks to "tweak" a few items, might be a positive move.

In response to a question from Commissioner Irby, Mr. Pluster advised that the Commission has the ability to craft the ordinance to reflect a specific term for the Use Permit.

Chairman Ryan stated that he would like the policy to include a statement that if Staff felt like a use was in conflict or not a good neighbor to a residential neighbor, they would have the option to bring that back to the Commission. He added that this would include obvious reasons such as noise, maintenance, deliveries, etc. He said that Staff should have the discretion to bring that back through the process and Mr. Pluster expressed the opinion that the ordinance (Section 2, last paragraph) provides Staff with that ability.

Mr. Pluster advised that if a business came into an area with an existing neighborhood, neighbors within 300 feet would be notified.

Commissioner Polvani concurred with the suggestion that this item be continued in order to solicit input from the Restaurant Association and said she had concerns regarding the earlier opening times.

In response to a question from Commissioner Polvani, Mr. Pluster noted that shopping centers have variable rates of occupancy and could be full today but half vacant a year from now for whatever reason. Commissioner Polvani stated the opinion that if a center has already signed its tenants, those tenants should not be required to undergo an additional hearing process and noted that who that do not receive approval, would be unable to be sited at that center. Mr. Pluster commented that convenience stores and drug stores virtually never locate "in line" at a center, they have to be on the corner for easy access. He said those types of businesses would not be triggered. He added that the restaurant category could be excluded and the hours of operation could be amended. He said that whatever they decide, they can always amend if necessary.

Additional discussion ensued relative to "midnight madness" sales and others that conduct a midnight sale, based on this ordinance those businesses would not have to come in for a Use Permit for those few occasions on which the sales are held.

Chairman Ryan expressed the opinion that Staff has done a good job and asked whether anyone else in the audience would like to speak regarding this item. No one expressed a desire to speak at this time.

Commissioner Polvani commented that she would support changing the hours to a 5 a.m. start time.

MOVED BY COMMISSIONER HEUMANN, seconded by COMMISSIONER POLVANI, that this item be continued to the August 4, 2004 Planning and Zoning Commission meeting for the purpose of soliciting additional input and formulating additional recommendations for the Commission's consideration.

MOTION CARRIED UNANIMOUSLY by those present (5 to 0).

Chairman Ryan thanked Staff for their hard work and encouraged the members of the Commission to contact Staff regarding any concerns/issues they may have regarding this matter.

7. DIRECTOR'S REPORT

None.

8. CHAIRMAN'S ANNOUNCEMENT

9. ADJOURNMENT

The meeting was adjourned at 7:05 p.m.

_____
Phil Ryan, Chairman

_____
Douglas A. Ballard, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, August 4, 2004, held in the City Council Chambers, 22 S. Delaware Street.

1. Chairman Ryan called the meeting to order at 5:32 p.m.

2. Pledge of Allegiance lead by Vice Chairman Flanders.

3. The following Commissioners answered Roll Call:

   Chairman Phil Ryan
   Vice Chairman Michael Flanders
   Commissioner Jeanette Polvani
   Commissioner Rick Heumann
   Commissioner Mark Irby
   Commissioner Brett Anderson

   Also Present:

   Mr. Jeff Kurtz, Current Planning Manager
   Mr. Hank Pluster, Long Range Planning Manager
   Mr. Bob Weworski, Principal Planner
   Mr. Thomas Ritz, Planner
   Mr. Kevin Mayo, Planner
   Ms. Kim Clark, Planner
   Mr. Dennis O'Neill, City Attorney
   Ms. Linda Porter, Secretary

4. APPROVAL OF MINUTES

VICE CHAIRMAN FLANDERS was absent from the July 21st meeting and will be abstaining on this item.

MOVED BY COMMISSIONER HEUMANN seconded by COMMISSIONER IRBY to approve the minutes of the July 21, 2004 meeting. MOTION APPROVED UNANIMOUSLY (5 to 0) WITH VICE CHAIRMAN FLANDERS ABSTAINING.

5. CONSENT AGENDA

CHAIRMAN RYAN announces to the audience that there are four items on tonight's agenda. The Planning Commission had a Study Session prior to this meeting, and after reviewing each item have decided to leave all four items on the consent agenda with some additional stipulations. At this time, the audience is given the opportunity to have any of these items pulled from the consent agenda.

CHAIRMAN RYAN requests that staff state the additional stipulations being recommended on the consent agenda items. JEFF KURTZ, Current Planning Manager, advised that staff is recommending several additional stipulations or modifications to existing stipulations on Item A, DVR04-0009/PPT04-0006 REID'S RANCH, LANDING AT REID'S RANCH, AND

AMBERWOOD HEIGHTS. #16 will be reworded as follows: ***The applicant shall fully landscape, with turf as a primary element, all parcels along Gilbert Road.*** #21 existing stipulation deleted and new stipulation inserted as follows: ***All homes built on corner lots shall be single story.*** #23 will be rewritten as follows: ***Along Gilbert Road and Chandler Heights Road at least two-thirds of the homes must be single story and there shall be no more than two (2) two-story homes in a row.*** #25 new stipulation as follows: ***Staff will work with the applicant to provide pedestrian access to the landscape tract along Gilbert Road from within the subdivision.*** #26 new stipulation as follows: ***The basketball court shall be moved to tract 'T', the larger central basin.***

CHAIRMAN RYAN states he had a discussion with the applicant in which the applicant relayed that they would like to keep the large area open as a play area, therefore ***Stipulation #26 is stricken.***

COMMISSIONER HEUMANN refers to the stipulation on landscaping along Gilbert Road and states they had discussed doing more with this parcel. He asks staff if they are comfortable with the stipulation. MR. KURTZ responds staff is comfortable with the stipulation; they understand Commission's direction to have a quality landscape installed in that area.

MR. KURTZ continues that staff is recommending four additional stipulations on Item C, DVR03-0052 THE SHOPPES AT RIGGS RANCH. #13 states: ***The applicant shall work with staff to provide the remaining building elevations for the bank and retail/office buildings to match the architectural features, materials, and colors of the other building elevations.*** #14 states: ***The loading bays and doors at the CVS Pharmacy building shall be screened from the arterial street by an 8-foot masonry screen wall located at the southeast corner of the building.*** #15 states: ***All service doors at building Parcels 3 and 4 shall have walkway access.*** #16 states: ***All vacant tenant panels on the monument signs shall be covered with an integrated cover panel.***

CHAIRMAN RYAN calls for questions from the Commission on any of the added stipulations.

COMMISSIONER HEUMANN states there was discussion in study session about access to the turf area on Item A. MR. KURTZ responds that issue is addressed in stipulation #25.

A. *DVR04-0009/PPT04-0006 REID'S RANCH, LANDING AT REID'S RANCH, AND AMBERWOOD HEIGHTS

APPROVED request for initial City of Chandler zoning of Planned Area Development (PAD) along with Preliminary Development Plan (PDP) approval for the subdivision layout and housing product, and Preliminary Plat approval for a 208 lot single-family residential development on approximately 100 acres. The development is composed of three individual subdivisions located both east of the northeast corner of Chandler Heights Road and Gilbert Road, and east of the southeast corner of Chandler Heights Road and Gilbert Road. Approval subject to the following conditions:

1. Right-of-way dedications to achieve full half widths for Gilbert Road and Chandler Heights Road, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.

2. Undergrounding of all overhead electric (less than 69kv), communication, and television lines and any open irrigation ditches or canals located on the site or within adjacent right-of-ways and/or easements. Any 69kv or larger electric lines that must stay overhead shall be located in accordance with the City's adopted design and engineering standards. The aboveground utility poles, boxes, cabinets, or similar appurtenances shall be located outside of the ultimate right-of-way and within a specific utility easement.

3. Future median openings shall be located and designed in compliance with City adopted design standards (Technical Design Manual #4).

4. Completion of the construction, where applicable, of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details, and design manuals.

5. The developer shall be required to install landscaping in the arterial street median adjoining this project to meet current City standards. In the event that the landscaping already exists within such median(s), the developer shall be required to upgrade such landscaping to meet current City standards.

6. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development, or take legislative action to cause the property to revert to its former zoning classification.

7. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Preliminary Development Plan for The Landing at Reid's Ranch, Reid's Ranch and Amberwood Heights Located In Chandler, AZ" kept on file in the City of Chandler Current Planning Division, in file no. DVR04-0009, except as modified by condition herein.

8. The covenants, conditions and restrictions (CC & R's) to be filed and recorded with the subdivision shall mandate the installation of front yard landscaping within 180 days from the date of occupancy with the homeowners' association responsible for monitoring and enforcement of this requirement.

9. The landscaping in all open spaces and rights-of-way as well as all perimeter fences and view walls, shall be maintained by the adjacent property owner or homeowners' association.

10. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls, and by the Public Works Director for arterial street median landscaping.

11. The homes shall have all copper plumbing lines for those lines under pressure.

12. The source of water that shall be used on the open space, common areas, and landscape tracts shall be reclaimed water (effluent). If reclaimed water is not available at the time

of construction, and the total landscapable area is 10 acres in size or greater, these areas will be irrigated and supplied with water, other than surface water from any irrigation district, by the owner of the development through sources consistent with the laws of the State if Arizona and the rules and regulations of the Arizona Department of Water Resources. If the total landscapable area is less than 10 acres in size, the open space common areas, and landscape tracts may be irrigated and supplied with water by or through the use of potable water provided by the City of Chandler or any other source that will not otherwise interfere with, impede, diminish, reduce, limit or otherwise adversely affect the City of Chandler's municipal water service area nor shall such provision of water cause a credit or charge to be made against the City of Chandler's gallons per capita per day (GPCD) allotment or allocation. However, when the City of Chandler has effluent of sufficient quantity and quality, which meets the requirements of the Arizona Department of Environmental Quality for the purposes, intended available to the property to support. In the event the owner sells or otherwise transfers the development to another person or entity; the owner will also sell or transfer to the buyer of the development, at the buyer's option, the water rights and permits then applicable to the development. The limitation that the water for the development is to be owner-provided and the restriction provided for in the preceding sentence shall be stated on the final plat governing the development, so as to provide notice to any future owners. The Public Report, Purchase Contracts, and Final Plats shall include a disclosure statement outlining that the development shall use treated effluent to maintain open space, common areas, and landscape tracts.

13. The "Public Subdivision Report", "Purchase Contracts", and CC&R's shall include a disclosure statement outlining that the site is adjacent to agricultural properties that have horse and animal privileges and shall state that such uses are legal and should be expected to continue indefinitely.

14. Homebuilder will advise all prospective homebuyers of the information on future City facilities contained in the City Facilities map found at www.chandleraz.gov/infomap, or available from the City's Communication and Public Affairs Department. The homebuilder shall post a copy of the City Facilities map in the sales office showing the location of future and existing City facilities.

15. Prior to the time of making any lot reservations or subsequent sales agreements, the home builder/lot developer shall provide a written disclosure statement, for the signature of each buyer, acknowledging that the subdivision is located adjacent to or nearby an aircraft engine testing facility and an airplane aerobatic training area that may cause adverse noise, odors, and other externalities. The "Public Subdivision Report", "Purchase Contracts", and CC&R's shall include a disclosure statement outlining that the site is adjacent to or nearby an aircraft engine testing facility and an airplane aerobatic training area, and the disclosure shall state that such uses are legal and should be expected to continue indefinitely. The disclosure shall be presented to prospective homebuyers on a separate, single form for them to read and sign prior to or simultaneously with executing a purchase agreement. This responsibility for notice rests with the homebuilder/lot developer and shall not be construed as an absolute guarantee by the City of Chandler for receiving such notice.

16. The applicant shall fully landscape, with turf as a primary element, all parcels along Gilbert Road.

17. The applicant shall work with Staff to modify the roof ridgelines of the 2855 model to achieve diverse roof ridgelines for the different elevations.

18. The tot lot shall be a minimum of 20 total play stations.

19. The same front elevation shall not be built on adjacent or opposite lots.

20. When two-story homes are built on adjacent lots, a 20-foot separation shall be provided between homes.

21. All homes built on corner lots shall be single story.

22. Prior to the time of making any lot reservations or subsequent sales agreements, the home builder/lot developer shall provide a written disclosure statement, for the signature of each buyer, acknowledging that the subdivision is located adjacent to an existing dairy farm and animal privileged properties that may cause adverse noise, odors, and other externalities. The "Public Subdivision Report", "Purchase Contracts", and CC&R's shall include a disclosure statement outlining that the site is near an existing dairy farm as well as other agricultural properties that have cow, horse, and other animal privileges, and the disclosure shall state that such uses are legal and should be expected to continue indefinitely. The disclosure shall be presented to prospective homebuyers on a separate, single form for them to read and sign prior to or simultaneously with executing a purchase agreement. This responsibility for notice rests with the homebuilder/lot developer and shall not be construed as an absolute guarantee by the City of Chandler for receiving such notice.

23. Along Gilbert Road and Chandler Heights Road at least two-thirds of the homes must be single story and there shall be no more than two (2) two-story homes in a row.

24. Sign packages, including free-standing signs as well as wall-mounted signs, shall be designed in coordination with landscape plans, planting materials, storm water retention requirements, and utility pedestals, so as not to create problems with sign visibility or prompt the removal of required landscape materials.

25. Staff will work with the applicant to provide pedestrian access to the landscape tract along Gilbert Road from within the subdivision.

Staff recommends approval of the Preliminary Plat subject to:

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.

B. <u>*DVR04-0030 WELLSPRING CHURCH ON DOBSON</u>

APPROVED request for action on the existing Planned Area Development (PAD) zoning to extend the conditional schedule for development, remove, or determine compliance with the two year schedule for development or to cause the property to revert to the former Agricultural

District (AG-1) zoning classification for property located at the northwest corner of Dobson Road and the future Santan Freeway. Approval of a three-year time extension subject to the following condition:

1. Compliance with the original stipulations adopted by the City Council as Ordinance No. 3384, case DVR02-0011 WELLSPRING CHURCH, except as modified by condition herein.

C. *DVR03-0052 THE SHOPPES AT RIGGS RANCH

APPROVED request for rezoning from Planned Area Development (PAD) for a City water facility to Planned Area Development (PAD) for a commercial shopping center and commercial office development, along with Preliminary Development Plan (PDP) approval for site layout and building architecture on approximately 5.4 acres located at the southwest corner of Chandler Heights and Gilbert Roads subject to the following conditions:

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "The Shoppes at Riggs Ranch" kept on file in the City of Chandler Planning Services Division, in File No. DVR03-0052, except as modified by condition herein.

2. Right-of-way dedications to achieve full half width for Gilbert and Chandler Heights Roads, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.

3. Completion of the construction of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details, and design manuals.

4. The developer shall be required to install landscaping in the arterial street median adjoining this project. In the event that the landscaping already exists within such median(s), the developer shall be required to upgrade such landscaping to meet current City standards.

5. Future median openings shall be located and designed in compliance with City adopted design standards (Technical Design Manual # 4).

6. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.

7. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls.

8. Sign packages, including free-standing signs as well as wall-mounted signs, shall be designed in coordination with landscape plans, planting materials, storm water retention requirements, and utility pedestals, so as not to create problems with sign visibility or prompt the removal of required landscape materials.

9. The landscaping in all open-spaces and rights-of-way shall be maintained by a property owners' association.

10. The source of water that shall be used on the open space, common areas, and landscape tracts shall be reclaimed water (effluent). If reclaimed water is not available at the time of construction, and the total landscapable area is 10 acres in size or greater, these areas will be irrigated and supplied with water, other than surface water from any irrigation district, by the owner of the development through sources consistent with the laws of the State of Arizona and the rules and regulations of the Arizona Department of Water Resources. If the total landscapable area is less than 10 acres in size, the open space common areas, and landscape tracts may be irrigated and supplied with water by or through the use of potable water provided by the City of Chandler or any other source that will not otherwise interfere with, impede, diminish, reduce, limit or otherwise adversely affect the City of Chandler's municipal water service area nor shall such provision of water cause a credit or charge to be made against the City of Chandler's gallons per capita per day (GPCD) allotment or allocation. However, when the City of Chandler has effluent of sufficient quantity and quality which meets the requirements of the Arizona Department of Environmental Quality for the purposes intended available to the property to support the open space, common areas, and landscape tracts available, Chandler effluent shall be used to irrigate these areas.

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

11. All perimeter landscaping, street and common area landscaping, driveways, parking associated with constructed buildings, and at least two building parcels shall be constructed as a part of Phase I.

12. All building signs facing the adjacent residential development to the south and west of the site shall be non-illuminated.

13. The applicant shall work with Staff to provide the remaining building elevations for the bank and retail/office buildings to match the architectural features, materials, and colors of the other building elevations.

14. The loading bays and doors at the CVS Pharmacy building shall be screened from the arterial street by an 8-foot masonry wall located at the southeast corner of the building.

15. All service doors at building Parcels 3 and 4 shall have walkway access.

16. All vacant tenant panels on the monument signs shall be covered with an integrated cover panel.

D. *ZCA04-0001 ZONING CODE AMENDMENT – LATE HOUR BUSINESSES

APPROVED request for continuance to the August 18, 2004 Planning and Zoning Commission meeting a City Initiative to amend Chapter 35 (Zoning Code) of the Chandler City Code, by revising Article II, Section 200, adding a definition for "Late Hour Business," and by revising Article XVII, Section 1702, Permitted Uses, pertaining to permitted uses within a Planned Area Development zoning designation and the specific requirements pertaining to late hour businesses.

CHAIRMAN RYAN states he will be abstaining from Item C, The Shoppes At Riggs Ranch, as he was a consultant on this project.

MOVED BY COMMISSIONER HEUMANN, seconded by VICE CHAIRMAN FLANDERS, to approve Consent Agenda items A-D with the additional stipulations outlined by Staff. MOTION APPROVED UNANIMOUSLY (6 to 0) WITH CHAIRMAN RYAN ABSTAINING FROM ITEM C.

6. DIRECTOR'S REPORT

None.

7. CHAIRMAN'S ANNOUNCEMENT

It has been brought to his attention that the APA Conference is in Tucson in September. He asks staff if the City typically covers any of the expenses for the Commissioners to attend this conference.

MR. KURTZ responds the City has extended the offer in the past and will extend it again this year. It is a good training exercise and many staff members attend on a regular basis. Staff will provide the Commissioners with the information.

The next regular meeting is Wednesday, August 18, 2004 at 5:30 p.m. in the Council Chambers.

8. ADJOURNMENT

The meeting was adjourned at 5:40 p.m.

_____
Phil Ryan, Chairman

_____
Douglas A. Ballard, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, August 18, 2004, held in the City Council Chambers, 22 S. Delaware Street.

1. Chairman Ryan called the meeting to order at 5:33 p.m.

2. Pledge of Allegiance lead by Commissioner Irby.

3. The following Commissioners answered Roll Call:

   Chairman Phil Ryan
   Vice Chairman Michael Flanders
   Commissioner Jeanette Polvani
   Commissioner Rick Heumann
   Commissioner Mark Irby

   Also Present:

   Mr. Hank Pluster, Long Range Planning Manager
   Mr. Bob Weworski, Principal Planner
   Mr. Thomas Ritz, Planner
   Ms. Kim Clark, Planner
   Ms. Ashley Bailey, Planner
   Ms. Judy Skousen, Assistant City Attorney
   Ms. Linda Porter, Clerk

4. APPROVAL OF MINUTES

MOVED BY VICE CHAIRMAN FLANDERS, seconded by COMMISSIONER HEUMANN to approve the minutes of the August 4, 2004 meeting. MOTION APPROVED UNANIMOUSLY (5 to 0).

5. CONSENT AGENDA

To the audience Chairman Ryan stated that there were 7 items on the evening's agenda. Item "A. DVR04-0013/PPT04-0015 Avian Trails" was pulled from the Consent Agenda for discussion. Item "B. DVR04-0026 McQueen Lakes" was also pulled from the Consent Agenda as the applicant requested further discussion with regard to an additional stipulation. Item "G. ZCA04-0001 Zoning Code Amendment – Late Hour Businesses" was an Action item for discussion.

Bob Weworski, Principal Planner stated that Item "D. PDP04-0013 Heraeus" an additional stipulation was added as follows: **No. 6. *"The applicant shall work with staff to create a pedestrian link walkway between the existing Heraeus facility and the new office building."*** In addition, Item "E. UP04-0028 Target #1838" one additional stipulation was added: **No. 4. *"Alcohol display shall be prohibited at the check-out lanes."***

C. DVR04-0028 BIAGIO, THE VILLAGE AT WILDTREE

CONTINUED TO THE SEPTEMBER 15, 2004 PLANNING AND ZONING COMMISSION MEETING, a request for an amendment to the Planned Area Development (PAD) zoning to modify a zoning condition for the traffic signal at the intersection of Chandler Boulevard and Terrace Road.

D. PDP04-0013 HERAEUS

APPROVED, a request for Preliminary Development Plan (PDP) approval for site layout and building architecture for a two-story office building located at 6165 W. Detroit St, within the Southpark Business Center.

1. Compliance with guidelines established in the PAD overlay zoning adopted by the City Council as Ordinance No. 2729, in case PL97-0046 SOUTHPARK BUSINESS CENTER.

2. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Heraeus" kept on file in the City of Chandler Current Planning Division, in file number PDP04-0013, except as modified by condition herein.

3. The landscaping in all open spaces and rights-of-way shall be maintained by the adjacent property owner or property owners association.

4. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls.

5. Sign packages, including free-standing signs as well as wall-mounted signs, shall be designed in coordination with landscape plans, planting materials, storm water retention requirements, and utility pedestals, so as not to create problems with sign visibility or prompt the removal of required landscape materials.

6. The applicant shall work with Staff to create a pedestrian link walkway between the existing Heraeus facility and the new office building.

E. UP04-0028 TARGET #1838

APPROVED, a request for Use Permit approval to sell liquor (Series 10 Beer and Wine License) at a general retail store at 3425 West Frye Road.

1. The Use Permit is for a Series 10 liquor license only, and any change in type of license shall require reapplication and new Use Permit approval.

2. Expansion beyond the approved Floor Plan shall void the Use Permit and require new Use Permit application and approval.

3. The Use Permit is non-transferable to any other store location.

4. Alcohol display shall be prohibited at the checkout lanes.

F. MOTION TO CANCEL SEPTEMBER 1, 2004 PLANNING COMMISSION MEETING

APPROVED, a motion to cancel the September 1, 2004 Planning and Zoning Commission meeting.

MOTION BY COMMISSIONER IRBY, seconded by **COMMISSIONER HEUMANN,** to approve the Consent Agenda with additional stipulations as read into the record. **MOTION WAS APPROVED BY THOSE PRESENT (5-0).**

ACTION AGENDA

A. DVR04-0013/PPT04-0015 AVIAN TRAILS

Request rezoning from Planned Area Development (PAD) to Planned Area Development amended (PAD) amended for a 94-lot single-family residential development on approximately 30 acres. The purpose of the rezoning request is to permit homes containing a two-story element on lots where these homes were not previously allowed. The property is located north of the northwest corner of McQueen Road and Chandler Heights Road. Trend Homes is the builder.

THOMAS RITZ, PLANNER, stated that this request is for initial city zoning of Planned Area Development along with Preliminary Development Plan approval for the subdivision layout only, and Preliminary Plat approval for a 92-lot single-family residential subdivision. The average lot size is approximately 10,660 square feet on approximately 34 acres. Staff is requesting approval of the request. Mr. Ritz read into the record the following amended stipulation:

> **No. 19.** ***"Out of the four lots backing onto Lindsay Road (lots 1-4), only one lot can have a two-story home on it."***

Three additional stipulations are in response to neighborhood concerns raised at a neighborhood meeting held previously.

> **No. 25.** ***"The developer shall create on the final plat and install an approximately seven foot wide landscaped tract along the northern border of the Avian Trails subdivision. The Avian Trails homeowner's association shall have the responsibility to maintain this landscaped tract. This landscaped tract will be provided only if all of the property owners immediately to the north of the Avian Trails subdivision record an irrevocable easement of adequate size to the developer and the Avian Trails homeowner's association to be used solely for access to install improvements on and maintain this landscaped tract. This easement must be executed by all of the property owners within forty-five days of their receipt thereof. If these conditions are not satisfied this landscaped tract area shall be platted as additional lot area."***

No. 26. ***"Two-story homes along the north boundary of the subdivision (lots 4 through 18) shall be limited to no more than every third lot, and no two two-story homes shall be built adjacent to each other."***

No. 27. ***"Lots 16 and 17 shall be built with single-story homes only."***

GENE RODGERS, 22811 S. LINDSAY, stated that homeowners along the street (Horseshoe) are concerned about the wall. He went on to say that Southwest Communities had cooperated and had made some concessions with the wall and landscaping. There's an indemnity clause that needs to be included in the easement to allow the homeowner's from being sued while the landscaping is being maintained. Mr. Rogers stated that the homeowner requested the developer build only single-story homes along the north boundary and wondered if this could ever be revoked should the development change from one builder to another builder. The neighbors want to protect their views of the San Tan Mountains.

CHAIRMAN RYAN stated that of the homes that abut the homeowner's south property line (north boundary line for the applicant), one out of every three homes could be two-story. There could possibly be 4 two-story homes. Mr. Ryan stated that as far as the landscape area, it's been stipulated that if a maintenance easement can't be worked out between the County landowners to the north of the property and this applicant, then it's going to convert back to the full depth lot and there won't be a landscape area. He went on to say that the maintenance easement area would be large enough to get a vehicle through. Mr. Rogers stated that there would be an additional easement to the existing road because there's already an easement there to get to the back property. Chairman Ryan commented that he felt that was the case.

CHAIRMAN RYAN asked if the applicant wanted to come forward to discuss the added stipulations. The applicant stated that he did not feel he needed to come forward.

COMMISSIONER IRBY commented that he didn't entirely understand the liability issue of the easement and asked if that's part of a typical easement or needed to be added to the stipulations. **THOMAS RITZ** stated that would be strictly between the developer and the property owners and did not need to be added as a stipulation. **CHAIRMAN RYAN** concurred.

MOTION BY COMMISSIONER HEUMAN, seconded by **COMMISSIONER IRBY** to approve DVR04-0013/PPT04-0015 AVIAN TRAILS, with the additional stipulations as read in by Staff. **MOTION WAS APPROVED BY THOSE PRESENT (5-0).**

CHAIRMAN RYAN stated that this item will go on the September 9, 2004 City Council meeting.

CHAIRMAN RYAN stated that he would be abstaining from voting on Item B. DVR04-0026 McQueen Lakes as he was a consultant for the original builder on the project.

B. DVR04-0026 MCQUEEN LAKES

Request rezoning from Planned Area Development (PAD) to Planned Area Development amended (PAD) amended for a 94-lot single-family residential development on approximately 30 acres. The purpose of the rezoning request is to permit homes containing a two-story element on lots where these homes were not previously allowed. The property is located north of the northwest corner of McQueen Road and Chandler Heights Road. Trend Homes is the builder.

THOMAS RITZ stated that this was a request for an amendment to the existing zoning on McQueen Lakes to permit homes containing a two-story element on lots where these homes were not previously allowed. Mr. Ritz stated that the project was originally approved by Jackson Properties, which contained a mix of one of one- and two-story homes for the zoning, lot layout and housing product. Trend Homes purchased the property from Jackson Properties. They have not modified the lot layout or the original zoning intent of single-family homes; however, they came up with a product mix, which is significantly different from the original Jackson proposal and the amount of one- and two-story homes. The Preliminary Development Plan for the housing product has been approved, the subdivision is currently under construction, and permits have been pulled, including along Crossbow Way. In the development of the subdivision, Trend Homes found two models that contains basically a single room of second story, which is 20% of the total footprint, that's a two-story home, and Trend wants to place this on certain lots that in the previous zoning originally done for Jackson only allowed single-story homes. With this, there are 3 stipulations: one deals with corner lots. Staff has also proposed to add an additional stipulation No. 7, which clarifies these homes: ***"The two-story element of the 208R plan shall be oriented away from the corner*** **(**the applicant is in agreement with this).

The second part of the additional stipulations deal with the percentage of homes along McQueen Road and Crossbow Way, allowing one particular home (the 210 home) to be built along McQueen and Crossbow Way and considered as a single-story even though it's a two-story home. There is an additional stipulation proposed,, No. 6, ***"No identical roof ridgelines are permitted on adjacent homes along Crossbow Way."*** The applicant had concerns with this stipulation due to homes that are already permitted there (3). The applicant indicated that they had already sold additional other lots along Crossbow Way and would need to go back to the homebuyers with the additional ridgeline requirement. The applicant pulled this item because they're not in agreement with the stipulation and represented that many of the homes along Crossbow Way have already sold.

The third stipulation deals with the two-story homes and two lots backing onto McQueen Road. That stipulation is not proposed to be modified from the development report, and the applicant is in agreement.

COMMISSIONER HEUMANN clarified with Mr. Ritz that the applicant is in objection to the additional stipulation of eliminating same ridgelines along Crossbow Way. There are 3 lots that are already permitted and some lots that have been sold. Mr. Ritz stated this was correct. Commissioner Heumann suggested that, since there's so much development along there that the stipulation doesn't change and leave Crossbow the way it was by not allowing the 208 or the 210.

DARIN HUGHES, TREND HOMES, 2020 N. ARIZONA AVE, CHANDLER, stated that they felt that the 210 plan is really a single-story plan. A room was built into the attic, which is a loft with no windows on the back or sides. They wanted to add more opportunity for the 210 plan to be sold in other places within the subdivision. He stated that a lot of time had elapsed since placing this request for the stipulation, and at the time not too many homes were sold back there, which is where they started the sales for the subdivision. Mr. Hughes stated that he is fine with removing the request and leaving Crossbow how it was previously.

VICE CHAIRMAN FLANDERS asked if anyone in the audience wanted to speak on this item. There was no response.

COMMISSIONER HEUMANN asked if removing stipulation No. 3 would eliminate that plan from going in. Mr. Ritz suggested striking "and Crossbow Way" and "and 87-94". The applicant, as well as the neighbors that had attended the neighborhood meeting, had no objection to the 210 plan being built on the lots backing along McQueen Road. Mr. Ritz said that proposed stipulation No. 6 be eliminated as well. **(No. 6, *"No identical roof ridgelines are permitted on adjacent homes along Crossbow Way."***)

MOTION BY COMMISSIONER HEUMANN, seconded by **COMMISSIONER POLVANI** to approve DVR04-0026 MCQUEEN LAKES subject to removing "Crossbow Way" from stipulation No. 3 so that it reads "For those lots backing up to McQueen Road (Lots 1-3), no less than 50 percent of the homes shall be one story and there may be no more than two side-by-side two- (2) story homes. For purposes of this stipulation only, the 210 plan shall not be considered a two-story home." There would be no additional stipulation No. 6.

VICE CHAIRMAN FLANDERS requested that stipulation No. 6 be re-read. Mr. Ritz stated that with the motion as proposed there would be one additional stipulation that was originally No. 7; it will now be No. 6: ***"The two-story element on the 208R plan shall be oriented away from the corner."***

THE MOTION WAS APPROVED BY THOSE PRESENT (4-0) WITH CHAIRMAN RYAN ABSTAINING FROM THE VOTE.

G. ZCA04-0001 ZONING CODE AMENDMENT – LATE HOUR BUSINESSES

MR. HANK PLUSTER presented the case for staff. This proposed zoning code amendment is a Council-directed City initiative pertaining to late hour businesses and requiring those that fall in that category to come forward to Council for a specific approval. A lot of background information has already been covered in previous meetings; the focus tonight will be on what has taken place since the continuance. There has been one change in text to the code amendment. This issue came up at the July 21st hearing, to clarify that it is not the intent for this code amendment to apply to office or industrial uses. Everything else, as far as the text of the amendment, has remained the same as previous hearings. At the first hearing there were some representatives of the restaurant industry expressing concern. Staff has met with them and had follow-up discussions. There is an exhibit "B" in the staff packet pertaining to questions raised in early August by the restaurant industry representatives and how staff responded to these questions. Staff feels there would be a very small impact on restaurants. Very few restaurants that would fall in the category of late hour would tend to locate within 300 feet of residential zoning. To document this position, staff researched commercial uses citywide that would fall in a late hour category. There are approximately 280 restaurants citywide of all types. Everything from a sandwich shop to a full service restaurant. Of those, it was determined that less than 5%, specifically 4.6% or 13 actual restaurants, would have been triggered had this ordinance been in effect when these restaurants were coming in. Of the less than 5%, half of those would have come forward anyway for a liquor use permit. Most restaurants do serve liquor. In staff's opinion, there are very few restaurants that would be affected now or in the future. The City is roughly halfway to commercial build-out. Mathematically it's reasonable to figure there may be a similar number of restaurants yet to come. If anything, this amendment may encourage restaurants to locate more than 300 feet away from a residential area. Staff has made it clear to the representatives that historically they have never been in support of recommending approval of drive-thrus, for example, within 300 feet of residential. In staff's view, it's not compatible.

MR. PLUSTER continues, staff also met with the Arizona Food Marketing Alliance (AFMA). They also expressed some concern. Staff requested a letter from them, which was provided very quickly. A copy of this letter is also in the staff packet. Primarily, their suggestion is to form a committee to look at other solutions rather than going forward with an ordinance of this type. The AFMA represents supermarkets, convenience stores, distributorships, manufacturers, wholesalers, etc. Staff has made it clear through discussions with them, that they are not affecting any distributorships, warehouses, or those types of uses. It would trigger the grocery stores/supermarkets if they were within 300 feet. Anything in the late hour category, after midnight or before 6 a.m., as well as being within 300 feet.

CHAIRMAN RYAN states the way he reads the first sentence, the establishment actually has to have its doors open to the public between the hours of 12:00 a.m. to 6:00 a.m. If the business is doing servicing, stocking, maintenance, etc., they would not be affected by this ordinance. MR. PLUSTER responds that is correct.

MR. PLUSTER continues that in order to help relieve any perceived burden there may be, staff suggests that most grocery stores sell liquor and would therefore be coming forward for a liquor use permit, so the same analysis could be done then as if they were just coming forward for a late hour approval. Also, it's pretty obvious to staff and to the public at least at the PDP time, if there is a tenant that is going to be a grocery store. It it's within 300 feet, and if there's any chance they would want to have extended hours, that could be included in the zoning and PDP approval.

It could be advertised and noticed that way, and still all be part of the same process. At that time they would go through all the analyses that they would have to go through anyway. Externalities, service deliveries, bay doors, dock location, fence heights, landscaping, service drive widths. All the physical things that are typically done. So it would not necessarily be an additional application, even for the grocery stores. Staff has also received a communication from the Chamber of Commerce. Staff understands that their recommendation is for the City to continue to work with businesses on an individual basis, and essentially not go forward with the ordinance as drafted. Staff is recommending approval of this amendment. The Commission could also recommend approval with any modification deemed appropriate, or recommend denial. Since this is a Council-directed initiative, Staff would like to move this item forward to Council.

CHAIRMAN RYAN comments that it appears to people that Chandler doesn't want businesses open during the hours of midnight to 6 a.m. and that's not the case. If the City shut down a business during these hours, there would be good reason to do so. Either it would impact an adjacent residential component or it would have adverse implications on adjacent uses. It's a good policy that we should have had a long time ago; although they are reviewed on a case-by-case basis as they come through. The problem is, some are starting to slip through in the form of a new business coming in and taking the place of an older business and not requiring a use permit.

COMMISSIONER POLVANI asks if there has been any discussion with the restaurant industry representatives about the hours of midnight to 6 a.m. being appropriate. MR. PLUSTER responds it didn't seem to be a major part of their concern, however, the industry representatives should probably respond to this question.

COMMISSIONER IRBY asks staff to explain the exclusion of bars from this ordinance. MR. PLUSTER states the reason for excluding bars is twofold. As far as hours of operation, there is a new state law about to take effect, allowing them to serve liquor until 2 a.m. so the City can't regulate hours of operation for bars. The other reason for excluding bars is because they already have to come forward for a liquor use permit. If anything, the fact that they can serve liquor until 2 a.m. can be a part of the land use analysis. Knowing that the hours of operation can't be touched, part of the Commission's deliberation for a liquor use permit can be if it is land use compatible for a particular location. The same scrutiny that would be put into a late hour approval, would still go into bars as they come forward for a liquor use permit. COMMISSIONER IRBY asks if a bar stops serving liquor at 1 or 2 a.m. but continues with a band or other function, could it be stipulated in the liquor use permit approval that after hours functions are prohibited. MR. PLUSTER responds that is correct, it could be stipulated.

CHAIRMAN RYAN states it is difficult sometimes to tell if an establishment is a bar or a family food restaurant that serves alcohol. Is there a certain type of liquor license that tells them it is definitely a bar. MR. PLUSTER responds the only real measurement is the license application itself. Over the years, the State has been pretty judicious in how they look at restaurant and bar licenses. Planning works with Management Services as they process liquor license applications concurrently with the liquor use permits. Both departments have a good understanding of what is being asked for through the State. Ultimately, it's the State that issues a liquor license or not. Whether a business has a bar license or a restaurant license is dependent upon how much food they sell. It is staff's understanding that the State conducts audits on a regular basis to ensure a business is meeting the criteria for a certain license; for example, that a restaurant is selling enough food to have a restaurant license as opposed to a bar license.

COMMISSIONER HEUMANN asks, as it pertains to this ordinance, what is considered a bar. There are places around Chandler that are taverns with Series 12 licenses that are supposed to be restaurants, but are more like bars. For this particular ordinance, what is considered a bar. MR. PLUSTER responds if it's licensed as a bar with the State, a Series 6 license, then it will be considered a bar. They would still have to come forward for a liquor use permit, but it would not trigger the late hour ordinance.

COMMISSIONER HEUMANN asks if staff looked at hours in terms of early opening. Why was the time set at 6 a.m. versus 5 a.m. MR. PLUSTER responds staff arrived at the midnight to 6 a.m. hours simply because, in staff's opinion, those are the hours with the greatest sensitivity. Certainly 6 a.m. in the summer is different from 6 a.m. in the winter. When the business inventory was done, it did pick up some of the home improvement stores which open at 5:30 a.m. Bakeries and coffee shops also fell into this category. That's something Commission could recommend changing or Council could change. At this point, staff is recommending 6 a.m. but an alternative could be 5 a.m.

COMMISSIONER HEUMANN asks what makes more noise or more disturbance. A restaurant or grocery store being open with people coming in the front door; or trucks and delivery vehicles coming between 12 a.m. and 6 a.m. That's the part he is having trouble justifying. They have stipulated on some cases no deliveries between certain times. Also, under the current law, if someone has a bar or restaurant and sells their business, it is basically grandfathered because the use didn't change. But someone else who wants to open a business across the street or in the same center, is going to have to go through the process. He doesn't feel this is a fair situation for those particular businesses. MR. PLUSTER responds as far as the impact of deliveries, in most if not all cases, Staff, Commission and Council will know through site plan approval and the PDP process if a tenant is going to be a large enough grocery store to trigger the large truck deliveries. Staff will continue to apply all of the site plan techniques and standards for service drives, the location of the bay doors and docks, wall height, landscaping, retention basins, etc. There are existing mechanisms that can address those impacts of deliveries. This ordinance is aimed more at the unknown occupancies; where we don't know what will be going in a particular space.

MR. PLUSTER continues, responding to Commissioner Heumann's second question pertaining to existing users and how they're triggered versus someone coming in across the street. That will come down to what our practice is for stipulating liquor use permits and what triggers a change. Over the years it has gone both ways. At times it has been stipulated that if there is an ownership change then that would trigger a reapplication. More often it's stipulated that if there is a site plan change or a floor plan change, then that would trigger re-approval of the liquor use permit. A new business coming in across the street would be triggered for the specific late hour approval if they're within 300 ft. and fall in the late hour category. If they do fall in this category and don't serve liquor, they would still have to come forward and apply. It's more likely they would be serving liquor and would have to come forward anyway.

COMMISSIONER HEUMANN asks if some of the older centers are redeveloped that back up to neighborhoods, for instance, Ray and Alma School or Ray and Arizona, that don't have to come through for a PDP approval, what protection do the neighborhoods have if a business changes to a more intense use. If the store doesn't stay open past midnight and nothing really changes except it's a more successful grocery store, for example, then there would be more truck deliveries. MR. PLUSTER responds that is correct if they are hard-zoned. They two example locations used are

both hard-zoned. But if a grocery store came in there, they would probably sell liquor and would have to come in for a liquor use permit even though they wouldn't fall under the late hour ordinance. Some of the same compatibility issues can still be addressed. If by chance there was a grocery store that large with truck deliveries that didn't sell liquor, it would not trigger this ordinance. Currently, there is no ordinance that would trigger this. COMMISSIONER HEUMANN states his point is, they could still be open until midnight and make more noise and disturbance to the neighborhood between midnight and 6 a.m. then if they were open.

VICE CHAIRMAN FLANDERS asks staff what is meant by 'commercial service' in the ordinance. MR. PLUSTER responds those are uses like print shops and exercise facilities. Places that provide a service, but you're not really buying anything. You're paying for a service. VICE CHAIRMAN FLANDERS additionally asks if the part of the definition that states 'drive-thru use that customarily opens its doors to the public' is specific to restaurants or does it include drug stores, banks and other uses that may not be open but have a 24-hour drive-thru. MR. PLUSTER responds the ATM drive-thrus are not being included because they don't have a manned 24-hour drive-thru lane. Staff felt a drive-up or walk-up ATM was incidental and very low volume; not very disruptive. Restaurants that have 24-hour drive-thru lanes would be tripped by this ordinance. If a drug store was open 24 hours and was within 300 ft., it would trigger this ordinance. With drug stores, staff felt it was more of an externality; it wasn't so incidental.

COMMISSIONER IRBY asks for clarification on the grandfather clause with this ordinance. MR. PLUSTER responds that is a general zoning term and practice. Anything that would fall in this category but is in operation prior to the effective date of the ordinance, would get to continue indefinitely. Even with a change in ownership, if it's the same type business operating under the same representation that was originally stipulated, and there are no changes other than ownership, they would be grandfathered. COMMISSIONER IRBY asks if the late hour approvals would be coming before the Commission or would it be done at the staff level. MR. PLUSTER responds it would be like the use permit process. It would be advertised and written notice sent to adjoining property owners. Commission would see it on their agenda and would recommend 'yes' or 'no' with or without conditions. It would then go on to Council.

At this time CHAIRMAN RYAN calls for public comment from the audience.

MS. BECKY JACKSON, President, Chandler Chamber of Commerce, states they are the voice of 920 businesses in Chandler. On August 3rd they sent a letter. There has been some confusion about the letter and she wants to state that they oppose this ordinance as presented. They believe it would hinder the possibility of obtaining new businesses, from some of the questions just answered. The grandfathering has the potential of giving existing businesses an advantage over newer businesses. An example of this would be an existing Taco Bell that happens to be within 300 ft. of a residence. If it's decided this isn't going to be a Taco Bell anymore and someone else wants to come in for a 24-hour use, they would need to go through the process again. If the property is in a location where that really is the use, it hinders the landowner from being able to bring in a business. They recognize the value of listening to everyone's discussion for quality of life. There's no question the city listens to the neighborhoods and what needs to be done. They are a business organization and are here representing businesses. She asks them to consider how it would hinder the economic development of the city. The Chamber talked about this issue at the Board level and the perception is that this would add one more level of approval process that a business would have to go through to do business in Chandler. They don't know why there needs to be a change, especially if the numbers are as small as is being reported. They would like to see

things continue the way it is being done now, look at each business and take care of things on an individual basis. If an issue comes up, like the Fry's at Germann and Alma School where it was stipulated what hours they could be open, there's no reason it can't be handled from that perspective. She wanted to come tonight to clarify their letter and clarify that they are opposed to the ordinance as presented. They have also recommended to the Mayor and City Council that they put together a committee or task force to review it. They learned about this proposal at a City Council meeting when it was in draft form. It takes their organization a little time to explain the process and get approval. It has gone through their public policy, Executive Committee, and Board of Directors. They had Doug Ballard and Donna Wallace speak at their public policy meeting, but they have not had a chance to sit down and talk about a more viable solution.

MR. STEVE CHUCRI, President, Arizona Restaurant and Hospitality Association, 2400 N. Central Ave., Phoenix, states he just became aware of this a few weeks ago and was unable to attend some of the earlier meetings but was involved in a conference call last week. The restaurant industry in Arizona is very important. This year they are slated to bring in $6 billion in revenue. Arizona is the second fastest growing state in restaurant growth in the country. Arizona is a very progressive state, and Chandler is a progressive city. Their organization worked with the City on the smoking issue. There was a committee formed on the smoking issue and it worked very well. However, on this issue it seems as though we're getting a steamroller to squash an ant. He doesn't believe enough analysis has gone into this because it brings about a lot of questions. For example, some Denny's Restaurants have liquor licenses and some do not. What kind of level playing field would that create in Chandler when you have two neighboring restaurants, one can stay open later and one can't. He feels this is a serious concern. Another, as mentioned by the Chamber, is the unlevel playing field by new businesses coming in. He disagrees with staff that the noise a vehicle makes going through a drive-thru teller is any less than going through a drive-thru restaurant. Teenagers going through a drive-thru ATM have their radios blaring the same as they would if they were going through a Taco Bell or McDonald's drive-thru. He is raising these concerns because he doesn't think this has been vetted in a way that makes sound public policy. He was pleased when restaurants were exempted, but in its new form they would be opposed to it and would encourage a committee as recommended by AFMA to study it. How will restaurants in hotels be impacted. He feels there are some big issues that need addressed.

COMMISSIONER HEUMANN clarifies with staff that hotels are not part of this ordinance and a restaurant in a hotel would have an advantage over restaurants not part of a hotel. MR. PLUSTER responds if a restaurant is operating within a hotel, the restaurant itself would trigger this approval process if it were going to be open 24 hours. The hotel portion wouldn't trigger this ordinance, but the restaurant portion would. COMMISSIONER HEUMANN asks if the hotel is operating a restaurant as part of their establishment that they own, would that also trigger the need for a permit. MR. PLUSTER responds that to be consistent with interpretations that have been made, if there are 2 or 3 accessory uses within a larger use, including liquor, in the past they have said if that portion is still operating and would trigger an ordinance requirement, then it does trigger a process.

MARC OSBORN, 825 E. Lawrence Road, is here representing Jack In The Box and others who operate some late night businesses. They have a couple concerns with the approach. To them it seems that if these facilities are designed effectively, they would be designed to mitigate noise and handle some of the other issues; not just between midnight and 6 a.m., but at the later hours, 10 p.m. and 11 p.m., where noise is just as sensitive an issue as it is at 1 or 2 a.m., or 5 a.m. He

feels that in order to design a more effective system, it should be done at the site plan stage, so if a 24-hour use comes in, it is easily adapted into the community. In terms of impacts, he feels the city is being very aggressive in terms of hours of operation. The early morning breakfast places that open at 5 a.m. will be impacted; all the Starbuck's would be affected by this. They are also concerned about the grandfathered versus the non-grandfathered restaurants. One potential scenario could be a late night competitor coming in and an adjoining restaurant developing a public relations campaign to keep that restaurant from operating late hours; thereby having a competitive advantage. Many franchises have stipulations in their agreements pertaining to hours of operation. This, also, could negatively impact those situations. They also feel this should be complaint driven rather than throwing everyone into this situation. There are some restaurants that have a smaller level of traffic and they will be kicked into this larger process. Clearly, a large 24-hour retail operation is different than a small bagel shop that happens to be open at 5:00 a.m. Yet they get the same extensive review. He feels some type of modification is warranted. They are also concerned that once establishments are grandfathered, they are now a legal non-conforming use. The City of Chandler has taken the position that they have the right and the authority to condemn non-conforming uses. This approach was just used at the Jack In The Box down the street. Ultimately, the City was unsuccessful and other settlements were used. But imagine the uncertainty that could be created for all these restaurants who now, just because of their hours of operation, are legal non-conforming uses and could be subject to condemnation at some time in the future. As a company who went through that, it is distressing to them.

MR. SEAN LAKE, 10 W. Main St., Mesa, states this issue became very personal to him this morning as he was on his exercise cycle at 5:30 a.m. He was not aware this would be causing any problems. The fitness center he works out at opens early in the morning and would be covered by this ordinance. They would be grandfathered now, but if they chose to open a half hour earlier, that would trigger this ordinance. All those grandfathered uses that wanted to open a half hour earlier would all trigger the ordinance and have to go through the process. He opposes this ordinance because he doesn't think it is necessary. He feels it is regulating uses where no established need or concern has been set forth. He thinks it is regulating for regulations sake. It hasn't been presented that there is a valid issue with the police department or a nuisance that requires this type of ordinance. There is a lot of effort that goes into the planning process to buffer adjacent neighbors. He thinks it's interesting that this ordinance is regulating what he feels are the non-intense uses. Usually, with a grocery store, the neighbors are most concerned with what happens at the back of the building, closest to them. Those issues are not being addressed, but rather someone coming in the front of the store at 5:00 a.m. He feels the focus is in the wrong areas. Staff indicated that they do address the issues at the back of the store through site design. He feels the issues of concern are already being addressed by staff. Therefore, they don't feel this ordinance is necessary at this time. He also feels the nuisance type issues are already being addressed by the city through nuisance ordinances. He requests that Commission either deny this request, or if they do choose to move it forward, make some changes. Some changes discussed at the previous meeting included altering residential to multi-family residential. Right now any use within 300 feet of any residential zoning, single-family, multi-family, vacant land zoned R-43, would trigger this ordinance. It was mentioned earlier that it is a desire to know what type of user is going to go in. If staff asks during the PAD and PDP process, a lot of times they don't know who the users are. If commission moves this request forward, he would ask that they make some minor modifications to the hours and also, change it to 'adjacent to single-family residential' as opposed to all residential.

MR. TIM CASEY, Vice President of Vineyards of Chandler HOA, located on the northeast corner of Dobson and Germann, states he is here to ask the Commission to vote in favor of this amendment as proposed. He, other people on the HOA Board, and other members of their HOA, are disappointed to hear that being a good neighbor is so difficult for the businesses. Unlike all the previous speakers tonight, they are the ones who have to live with this every day, or more specifically every evening, with the consequences of this ordinance. He wants to make it clear that in no way do the residents support a ban on late hour businesses. Things like a 24-hour pharmacy or grocery store are necessary for a neighborhood. What they are concerned about is the type of construction that goes on in many of the corners. As has been noted, many of the items such as delivery and maintenance issues happen after hours, but those issues have already been taken care of. What they are asking for is to fill in the gaps. Fill in that one place that is not covered but could have a tremendous impact on their quality of life. They are not talking about just some occasional noise. They are talking about their quality of life. One drive-thru in the neighborhood probably won't have a negative impact. What they are concerned about is when there are 3, 4 or 5. They want some mechanism in place to question whether a sixth application is really necessary. Is it going to improve the quality of life or is it going to take away from it. They don't understand why the businesses see this as such a huge impediment; why notifying neighbors that this use was going to come along would be such a problem. They are asking Commission to vote in favor of the amendment as proposed.

CHAIRMAN RYAN states he has tried to look at every angle and possibility of how this would affect the Commission's schedule and how they review different projects. Most of the new Planned Area Developments they see have a narrative that has a blanket stating that within 300 feet they wish that the following uses be allowed. We don't know what the uses are going to be, but they list uses. That is going to grant them the ability to go out into the marketplace and get those uses if the Commission and Council approve those uses. That approval or disapproval is based on how much buffer is given to the residential. That is what they do now, so nothing has really changed. Only 1% of the types of uses listed would actually come under severe scrutiny with this ordinance. Right now the Commission is reviewing almost every case in the same manner; the way their operation is set up, how many tables they have, where is their bar, how is it exposed to the residential, what are their hours of operation. It's the hard zoning cases and the businesses that come in and take over another business that change the operation of that business that should be scrutinized and aren't being scrutinized right now. He doesn't see this as a detriment to the business and doesn't see existing businesses being grandfathered as having a competitive edge. They're not looking at all businesses, just the ones within 300 ft. of a residential area. He thinks the protection of all residential is good for the city.

COMMISSIONER POLVANI states she has been struggling with this because she doesn't see a lot different with this process either. She sees a community that has a great public input process and a community who's voice is heard over and over in the planning process. She sees staff working with developers to assure good land use, and that we aren't putting drive-thrus within 300 ft. We're doing very high quality projects and we are stipulating and making sure they are compatible coming into the neighborhood. She is struggling with creating an additional ordinance that she's not sure all the questions have been answered. She doesn't want to end up with something unmanageable or that will have to be changed. She thinks we are already doing a good job and doesn't feel she could support the ordinance in its current form.

COMMISSIONER HEUMANN feels that protecting neighborhoods is important, but he agrees with Commissioner Polvani in terms of what is right over all. There is already a process where

residents can come to them or Council with an issue if there is a problem. To hinder businesses that are the life-blood of the city, especially restaurants and health clubs... A lot of the businesses in the shopping centers are small mom and pop operations just trying to make a living. For them to have to come in and pay probably $300 for a use permit and maybe even hire an attorney, he finds very anti-business. He thinks they already do a good job buffering and doesn't see an issue with the front of it. Although he appreciates staff's efforts, he thinks the system already in place works fine. If an issue arises with a project, they can, and have, added stipulations. He can't support this ordinance in its present form and will be voting No.

VICE CHAIRMAN FLANDERS feels it is important to protect the neighborhoods from certain uses. He feels staff does a good job bringing things forward. He's not comfortable with this ordinance the way it is written right now. He thinks it needs to be looked at a little more, possibly by forming a committee as suggested.

COMMISSIONER IRBY states he has gone back and forth on whether he supports or doesn't support this ordinance. He is leaning toward the feeling that this ordinance is an over-kill for what it is trying to achieve. He thinks the intent is correct but doesn't feel it has enough of an impact on the city to be worth an additional 'big brother looking over everyone's shoulder' trying to make everyone happy. He is not in support of the ordinance and thinks it is perceived through the community and other communities as a negative. He doesn't think the grandfathered part of the ordinance would make that much difference as an advantage or disadvantage to business, but the perception is there. It is such a small percentage, it's not worth the impact to the city.

MOVED BY COMMISSIONER HEUMANN, seconded by COMMISSIONER IRBY, to deny ZCA04-0001 ZONING CODE AMENDMENT – LATE HOUR BUSINESSES. MOTION CARRIED BY MAJORITY (4 to 1). (In favor: Heumann, Irby, Flanders, Polvani; Opposed: Ryan; Absent: Anderson)

6. DIRECTOR'S REPORT

None.

7. CHAIRMAN'S ANNOUNCEMENT

Chairman Ryan reminded the Commissioners of the Planning Conference in Tucson in September and asked the Commission to respond to City staff by Monday if they plan to attend.

The next regular meeting is Wednesday, September 15, 2004 at 5:30 p.m. in the Council Chambers.

8. ADJOURNMENT

The meeting was adjourned at 6:58 p.m.

_____
Phil Ryan, Chairman

_____
Douglas A. Ballard, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, September 15, 2004, held in the City Council Chambers, 22 S. Delaware Street.

1. Chairman Ryan called the meeting to order at 5:44 p.m.

2. Pledge of Allegiance lead by Commissioner Anderson.

3. The following Commissioners answered Roll Call:

   Chairman Phil Ryan
   Vice Chairman Michael Flanders
   Commissioner Jeanette Polvani
   Commissioner Rick Heumann
   Commissioner Mark Irby
   Commissioner Brett Anderson

   Also Present:

   Mr. Jeff Kurtz, Current Planning Manager
   Mr. Bob Weworski, Principal Planner
   Ms. Jodie M. Novak, Planner II
   Mr. Thomas Ritz, Planner
   Mr. Kevin Mayo, Planner
   Ms. Kim Clark, Planner
   Ms. Ashley Bailey, Planner
   Mr. Joshua Cook, Planner
   Mr. Glenn Brockman, Assistant City Attorney
   Ms. Linda Porter, Clerk

4. APPROVAL OF MINUTES

MOVED BY VICE CHAIRMAN FLANDERS, seconded by COMMISSIONER HEUMANN to approve the minutes of the August 18, 2004 meeting as presented. **MOTION CARRIED UNANIMOUSLY (6 to 0).**

CHAIRMAN RYAN announced that the Commission had met earlier in a Study Session and reviewed the items on the agenda. A number of items were placed on the Consent Agenda at that time. He explained that Consent Agenda items, B, C, E, F, I, J and K would be voted upon by a single motion. He asked whether anyone in the audience wished to remove any of those items from the Consent Agenda and no one indicated a desire to do so. Commissioner Heumann asked whether Item A was an Action item and Chairman Ryan stated that he had received a speaker card on that agenda item.

CHAIRMAN RYAN asked Current Planning Manager JEFF KURTZ, to read in the additional stipulations. Mr. Kurtz stated that Item "C' Coronado Estates, contains a re-write to stipulation No. 12. ***"All lots shall be limited to single story homes only."*** Item "K" Jensen Building, an additional stipulation No. 8, ***"Applicant shall work with Staff to reduce the amount of vertical columns on the elevations of the speculative building."*** Mr. Kurtz stated that the applicants are in concurrence with the added stipulations. In referencing stipulation No. 8, Commissioner Irby

wanted it noted that the columns were to be eliminated or reduced on the rear elevations. Mr. Kurtz said he would work that into the language.

5. CONSENT AGENDA

B. DVR04-0019 ALGODON PARK

Request action on the existing Planned Area Development (PAD) zoning to extend the conditional schedule for development for a three (3) year period, remove, or determine compliance with the two year schedule for development or to cause the property to revert to the former Planned Industrial District (I-1), Community Commercial District (C-2), and Agriculture District (AG-1). The existing PAD zoning is for a conceptual commercial center with a transit oriented multi-family overlay on approximately 22.1 acres at the southeast corner of Arizona Avenue and Chandler Heights Road. **APPROVED, to extend the timing condition for three (3) years with all of the conditions in the original approval remaining in effect.**

C. DVR04-0020 CORONADO ESTATES

APPROVED, a request for rezoning from Agriculture District (AG-1) to Planned Area Development (PAD) along with Preliminary Development Plan approval for a custom home residential subdivision on approximately 2.4 acres located north of the northeast corner of Coronado Street and Galveston Street.

1. Right-of-way dedications to achieve full half widths for adjacent streets, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.
2. Future median openings shall be located and designed in compliance with City adopted design standards (Technical Design Manual #4).
3. Completion of the construction, where applicable, of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details, and design manuals. The developer shall be required to install landscaping in the arterial street median adjoining this project to meet current City standards. In the event that the landscaping already exists within such median(s), the developer shall be required to upgrade such landscaping to meet current City standards.
4. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development, or take legislative action to cause the property to revert to its former zoning classification.
5. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled “Coronado Estates” kept on file in the City of Chandler Current Planning Division, in file no. DVR04-0020, except as modified by condition herein.
6. The covenants, conditions and restrictions (CC & R's) to be filed and recorded with the subdivision shall mandate the installation of front yard landscaping within 180 days from the date of occupancy with the homeowners' association responsible for monitoring and enforcement of this requirement.
7. The landscaping in all open spaces and rights-of-way as well as all perimeter fences and view walls, shall be maintained by the adjacent property owner or homeowners’ association.

8. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls, and by the Public Works Director for arterial street median landscaping.
9. The "Public Subdivision Report," "Purchase Contracts," and CC&R's shall include a disclosure statement outlining that the site is adjacent to agricultural properties that have horse and animal privileges and shall state that such uses are legal and should be expected to continue indefinitely.
10. Homebuilder will advise all prospective homebuyers of the information on future City facilities contained in the City Facilities map found at www.chandleraz.gov/infomap, or available from the City's Communication and Public Affairs Department. The homebuilder shall post a copy of the City Facilities map in the sales office showing the location of future and existing City facilities.
11. The homes shall have all copper plumbing for those lines under water pressure.
12. Two-story homes shall be restricted to lots 5 and 6 only.
13. A sidewalk shall be constructed on at least one side of the street.

E. DVR04-0035 GATEWAY MARKETPLACE

APPROVED, a request for action on the existing Planned Area Development (PAD) zoning to extend or remove the conditional schedule for development, determine compliance with the two year schedule for development, or to cause the property to revert to the former Agricultural District (AG-1) zoning classification. The existing Planned Area Development zoning is approved for a new Safeway grocery store and commercial retail development within approximately 102,000 square feet of building space on 19.73-acres of land located at the northwest corner of Riggs and Gilbert Roads. Approval is based on the following condition:

1. Compliance with the original stipulations adopted by the City Council as Ordinance 3397, case DVR02-0019 GATEWAY MARKETPLACE, except as modified by condition herein.

F. DVR03-0042 / PPT04-0003 ANATOLIAN COUNTRY ESTATES

APPROVED, a request for rezoning from Agricultural District (AG-1) to Planned Area Development (PAD) for a 28-lot custom single-family residential subdivision with Preliminary Development Plan (PDP) and Preliminary Plat approval for subdivision layout and development standards on approximately 20 acres located at the northeast corner of Cloud and McQueen Roads.

1. Right-of-way dedications to achieve full half widths for McQueen Road, Cloud Road, and 122nd Street including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.
2. Undergrounding, if applicable, of all overhead electric (under 69KV), communications and television lines and any open irrigation ditches or canals located on the site or within adjacent right-of-ways and/or easements in accordance with City adopted design and engineering standards.
3. Future median openings shall be located and designed in compliance with City adopted design standards (Technical Design Manual #4).
4. Completion of the construction, where applicable, of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City

codes, standard details, and design manuals. The developer shall be required to install landscaping in the arterial street median adjoining this project to meet current City standards. In the event that the landscaping already exists within such median(s), the developer shall be required to upgrade such landscaping to meet current City standards.

5. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development, or take legislative action to cause the property to revert to its former zoning classification.
6. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Anatolian Country Estates" kept on file in the City of Chandler Current Planning Division, in file no. DVR03-0042, except as modified by condition herein.
7. The covenants, conditions and restrictions (CC & R's) to be filed and recorded with the subdivision shall mandate the installation of front yard landscaping within 180 days from the date of occupancy with the homeowners' association responsible for monitoring and enforcement of this requirement.
8. The landscaping in all open spaces and rights-of-way as well as all perimeter fences and view walls, shall be maintained by the adjacent property owner or homeowners' association.
9. All lots shall be at least 12,000 square feet in size.
10. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls, and by the Public Works Director for arterial street median landscaping.
11. The homes shall have all copper plumbing lines for those lines under pressure.
12. The source of water that shall be used on the open space, common areas, and landscape tracts shall be reclaimed water (effluent). If reclaimed water is not available at the time of construction, and the total landscapable area is 10 acres in size or greater, these areas will be irrigated and supplied with water, other than surface water from any irrigation district, by the owner of the development through sources consistent with the laws of the State of Arizona and the rules and regulations of the Arizona Department of Water Resources. If the total landscapable area is less than 10 acres in size, the open space common areas, and landscape tracts may be irrigated and supplied with water by or through the use of potable water provided by the City of Chandler or any other source that will not otherwise interfere with, impede, diminish, reduce, limit or otherwise adversely affect the City of Chandler's municipal water service area nor shall such provision of water cause a credit or charge to be made against the City of Chandler's gallons per capita per day (GPCD) allotment or allocation. However, when the City of Chandler has effluent of sufficient quantity and quality, which meets the requirements of the Arizona Department of Environmental Quality for the purposes intended available to the property to support the open space, common areas and landscape tracts available, Chandler effluent will be used to irrigate those areas. In the event the owner sells or otherwise transfers the development to another person or entity, the owner will also sell or transfer to the buyer of the development, at the buyer's option, the water rights and permits then applicable to the development. The limitation that the water for the development is to be owner-provided and the restriction provided for in the preceding sentence shall be stated on the final plat governing the development, so as to provide notice to any future owners. The Public Report, Purchase Contracts, and Final Plats shall include a disclosure statement outlining that the development shall use treated effluent to maintain open space, common areas, and landscape tracts.

13. The "Public Subdivision Report", "Purchase Contracts", and CC&R's shall include a disclosure statement outlining that the site is adjacent to agricultural properties that have horse and animal privileges and shall state that such uses are legal and should be expected to continue indefinitely.
14. All homes shall be single story.
15. Homebuilder will advise all prospective homebuyers of the information on future City facilities contained in the City Facilities map found at www.chandleraz.gov/infomap, or available from the City's Communication and Public Affairs Department.
16. Prior to the time of making any lot reservations or subsequent sales agreements, the home builder/lot developer shall provide a written disclosure statement, for the signature of each buyer, acknowledging that the subdivision is located adjacent to or nearby an aircraft engine testing facility and an airplane aerobatic training area that may cause adverse noise, odors, and other externalities. The "Public Subdivision Report", "Purchase Contracts", and CC&R's shall include a disclosure statement outlining that the site is adjacent to or nearby an aircraft engine testing facility and an airplane aerobatic training area, and the disclosure shall state that such uses are legal and should be expected to continue indefinitely. The disclosure shall be presented to prospective homebuyers on a separate, single form for them to read and sign prior to or simultaneously with executing a purchase agreement. This responsibility for notice rests with the homebuilder/lot developer and shall not be construed as an absolute guarantee by the City of Chandler for receiving such notice.
17. The subdivision shall be constructed as a custom home subdivision only, and any other type of housing product shall require separate Preliminary Development Plan approval.
18. Lots 2-9 shall have equestrian rights and privileges.

Also **APPROVED** Preliminary Plat **PPT04-0003 ANATOLIAN COUNTRY ESTATES** subject to:

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.

I. UP04-0025 SUNRISE ADULT CARE HOME

APPROVED, a request for Use Permit extension approval to continue the provision of adult care services within their home located at 2004 W. Western Drive.

1. The Use Permit shall be extended for a period of three (3) years, at which time re-application shall be required. The three-year time period shall begin from the date of City Council approval.
2. Compliance with the City of Chandler's Zoning Code provisions with regard to the operation of adult care homes.
3. Maximum resident capacity is six.

J. UP04-0037 BASHA HIGH SCHOOL SEMINARY

WITHDRAWN FOR THE PURPOSE OF RE-ADVERTISING, a request for Use Permit approval for a temporary modular building located on approximately 2.29 acres at the southwest corner of Riggs Road and Val Vista Drive.

K. PDP04-0015 JENSEN BUILDING

APPROVED, a request for Preliminary Development Plan (PDP) approval for site layout and building architecture for an 18,983 square foot speculative industrial building and a 12,084 square foot storage addition to existing Tempe Label Company. The property is approximately 4.59 acres located at the Northwest corner of Nevada Street and Palomino Drive within the Westech Corporate Center.

1. Compliance with original stipulations adopted by the City Council as Ordinance No. 2858, in case PL98-0020 WESTECH PAD.
2. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Richard B. Jensen Building Addition & Speculative Office/Warehouse" kept on file in the City of Chandler Current Planning Division, in file number PDP04-0015 JENSEN BUILDING, except as modified by condition herein.
3. The landscaping in all open spaces and rights-of-way shall be maintained by the adjacent property owner or property owners' association.
4. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls.
5. Sign packages, including free-standing signs as well as wall-mounted signs, shall be designed in coordination with landscape plans, planting materials, storm water retention requirements, and utility pedestals, so as not to create problems with sign visibility or prompt the removal of required landscape materials.
6. No outside storage or display of any kind will be permitted for any business within the speculative building.
7. Building signage shall be limited to reverse pan channel, non-illuminated letters only.

MOTION BY COMMISSIONER POLVANI, seconded by COMMISSIONER IRBY, to approve the Consent Agenda with additional stipulations as read into the record. **MOTION WAS APPROVED UNANIMOUSLY (6-0).** Chairman Ryan said he wanted the record to reflect that his consent vote did not include Item "F" Anatolian Country Estates as he was a consultant for that project. Vice Chairman Flanders also stated that he wanted the record to reflect that his consent vote did not include Item "E" Gateway Marketplace as he was a consultant on that project.

6. ACTION ITEMS

A. DVR04-0002 / PPT04-0012 VINTAGE VILLAS

Request rezoning from Agricultural (AG-1) to Planned Area Development (PAD) for a single-family residential development with Preliminary Development Plan (PDP) approval for subdivision layout and Preliminary Plat approval on approximately 23 net acres. The property is located on the north side of Willis Road, a quarter-mile west of the northwest corner of Willis and Dobson Roads.

JODIE NOVAK, PLANNER II, stated that this project is approximately 23 acres in size and includes 59 single-family residential lots. The lots range in size from 10,000 square feet to just over 18,000 square feet. The project will come back with a separate Preliminary Development Plan for the design guidelines and architecture for semi-custom homes, which are estimated to be between 2,500 square feet to 4,500 square feet in size with a potential for basement options as well. The project is located within the Dobson/Germann Area Plan, which designates the lots to have a minimum square footage of 10,000 square feet. This project is consistent with that plan. It

is adjacent to existing residential development, Pecos Vistas II to the east, as well as Pecos Ranch Estates and Pecos Vista on the south side of Willis Road. Surrounding this property is existing agriculturally zoned property. Some of the land is vacant and is used for grazing horses. There are several lots that are individually owned with homes on them with animal privileges. Staff has added a zoning condition to address concerns voiced by the local residents in the area, to limit the number of 2-story homes along Willis Road, as well as some of the lots that are adjacent to existing single family. An additional stipulation has been added for prospective homebuyers to make them aware that there are animal privilege properties in the area. Ms. Novak went on to say that during the Study Session there had been a modification to condition No. 14 to read, *"No more than two, 2-story homes shall be built side by side, and no less than 50% of the homes shall be one story for lots backing up onto Willis Road."* Condition No. 24 has also been added, *"In addition to columns in pre-cast concrete caps, perimeter theme walls shall incorporate split-faced block on top coarse of wall and center-scored block on the rest of the wall"* Ms. Novak stated that the applicant is in agreement with both the modified and additional stipulation. She went on to state that there were several neighborhood meetings held and staff is not aware of any opposition to the project. She noted that Staff recommends approval subject to the following conditions and modifications/additions noted above:

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Vintage Villas," kept on file in the City of Chandler Planning Services Division, in File No. DVR04-0002, except as modified by condition herein.
2. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.
3. Rights-of-way dedications to achieve full half-widths, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.
4. Undergrounding of all overhead electric (less than 69kv), communication and television lines and any open irrigation ditches or canals located on the site or within adjacent right-of-ways and/or easements. Any 69kv or larger electric lines that must stay overhead shall be located in accordance with the City's adopted design and engineering standards. The aboveground utility poles, boxes, cabinets or similar appurtenances shall be located outside of the ultimate right-of-way and within a specific utility easement.
5. Completion of the construction of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details and design manuals.
6. Future median openings shall be located and designed in compliance with City adopted design standards (Technical Design Manual #4).
7. The landscaping in all open spaces and rights-of-way shall be maintained by the adjacent property owner or a homeowners' association.
8. The developer shall be required to install landscaping in the arterial street median(s) adjoining this project. In the event that the landscaping already exists within such median(s), the developer shall be required to upgrade such landscaping to meet current City standards.
9. The covenants, conditions and restrictions (CC&R's) to be filed and recorded with the subdivision shall mandate the installation of front yard landscaping within 180 days from the date of occupancy with the homeowners' association responsible for monitoring and enforcement of this requirement.

10. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Public Works for arterial street median landscaping.
11. The source of water that shall be used on the open space, common areas and landscape tracts shall be reclaimed water (effluent). If reclaimed water is not available at the time of construction, and the total landscapable area is 10 acres in size or greater, these areas will be irrigated and supplied with water, other than surface water from any irrigation district, by the owner of the development through sources consistent with the laws of the State of Arizona and the rules and regulations of the Arizona Department of Water Resources. If the total landscapable area is less than 10 acres in size, the open space, common areas and landscape tracts may be irrigated and supplied with water by or through the use of potable water provided by the City of Chandler or any other source that will not otherwise interfere with, diminish, reduce, limit or adversely affect the City of Chandler's municipal water service area nor shall such provision of water cause a credit or charge to be made against the City of Chandler's gallons per capita per day (GPCD) allotment or allocation. However, when the City of Chandler has effluent of sufficient quantity and quality which meets the requirements of the Arizona Department of Environmental Quality for the purposes intended available to the property to support the open space, common areas, and landscape tracts available, Chandler effluent shall be used to irrigate those areas.
    In the event the owner sells or otherwise transfers the development to another person or entity, the owner will also sell or transfer to the buyer of the development, at the buyer's option, the water rights and permits then applicable to the development. The limitation that the water for the development is to be owner-provided and the restriction provided for in the preceding sentence shall be stated on the final plat governing the development, so as to provide notice to any future owners. The Public Report, Purchase Contracts and Final Plats shall include a disclosure statement outlining that the Vintage Villas (DVR04-0002) development shall use treated effluent to maintain open space, common areas and landscape tracts.
12. All homes built on corner lots within the residential subdivision shall be single-story.
13. Lots 4 through 14 shall be constructed only with single-story homes.
14. No more than two, two-story homes shall be built side-by-side and no less than 50% of the homes shall be one story for lots backing up to Willis Road. (*Modified)*
15. No more than two identical side-by-side roof slopes should be constructed along arterial or collector streets or public open space.
16. The same elevation shall not be built side-by-side or directly across the street from one another.
17. When two-story homes re built on adjacent lots, a 20-foot separation shall be provided between homes.
18. The homes shall have all copper plumbing for those lines under water pressure.
19. The tot lot shall be a minimum of 20 total play stations.
20. Preliminary Development Plan approval as granted herein shall apply to the subdivision layout only. Housing product shall be subject to subsequent Preliminary Development Plan approval.
21. The development shall provide sound attenuation measures in accordance with ADOT standard details and requirements excepting any decibel reductions or sound attenuation credits for the use of a rubberized asphalt paving surface. Any noise mitigation, if required, is the responsibility of the development.
22. Prior to the time of making any lot reservations or subsequent sales agreements, the home builder/lot developer shall provide a written disclosure statement, for the signature of each

buyer, acknowledging that the subdivision is located adjacent to existing ranchette and animal privilege properties that may cause adverse noise, odors and other externalities. The "Public Subdivision Report," "Purchase Contracts," and CC&R's shall include a disclosure statement outlining that the site is adjacent to agricultural properties that have horse and animal privileges and shall state that such uses are legal and should be expected to continue indefinitely. This responsibility for notice rests with the home builder/lot developer and shall not be construed as an absolute guarantee by the City of Chandler for receiving such notice.

23. Homebuilder will advise all prospective homebuyers of the information on future City facilities contained in the City Facilities map found at www.chandleraz.gov/infomap or available from the City's Communication and Public Affairs Department. The homebuilder shall post a copy of the City Facilities map in the sales office showing the location of future and existing City facilities.
24. In addition to columns in pre-case concrete caps, perimeter theme walls shall incorporate split-faced block on top coarse of wall and center-scored block on the rest of the wall. (*Added*)

COMMISSIONER IRBY stated that he would abstain on this item because he discovered that one of the developers bought a current project that he designed and felt there may be a conflict. Chairman Ryan stated that although that appeared to be a "gray area," that would be fine.

CHAIRMAN RYAN stated that this item had been on the Consent Agenda, but later had received a speaker card so it was pulled and placed on the Action Agenda. Chairman Ryan invited Nick Goodman to the podium.

NICK GOODMAN, 1708 E. Kaibab Drive, Chandler, stated that he was representing the property just north of the western portion of the subject property. He stated it is a 5-acre parcel. Mr. Goodman stated that he had three concerns that he felt had not been addressed by the developer. He commented that he wanted this to be on record and to be considered. The first concern had to do with domestic well rights. The plan shows a new well site for the City of Chandler. He stated that currently each property owner (each acre) has a one-fortieth share in the 25' x 25' well site and the current plan in the pamphlet shows the well site not being there. Mr. Goodman said that he had reviewed this with CMX, and some of the plans in the past specified that the well was going to be abandoned. He stated that as owners of the well, they had not agreed to abandon the well, at least their 5 acres had not. Mr. Goodman felt this needed to be addressed.

Mr. Goodman went on to say that point #2 had to do with flood irrigation and SRP water rights. He stated that they had 10 acres initially. The developer is using 5 of those acres, and the ditch needed to irrigate his property runs along the southern border of the other 5 acres. That ditch will no longer be there as it will be a street containing some homes. He felt the developer needed to address his concern about irrigating his 5 acres of property. Mr. Goodman's last concern had to do with the homes that are going to be built adjacent to his property. He said he wanted them to consider developing only single-story homes adjacent to his 5 acres. He said that would be lots 36-42 of the new subdivision.

Mr. Goodman said that their land is zoned agricultural and although there is no specific use planned for the land, they wanted to keep their options open. Currently it is set up to have five, one-acre homes on the land. With that, some of those homes would have 3 or 4 neighbors, which was his concern with the lot size of the adjacent neighborhood.

COMMISSIONER HEUMANN asked Mr. Goodman to point out his property and explain how the flood irrigation affected his property. Mr. Goodman explained that the original ten acres was irrigated and is still being irrigated today. He said that his dad bought 5 of those acres and pointed out the location of the irrigation ditch in relation to his property. His concern was how the irrigation would get to his property in the future. He pointed out that the land had water rights and the way they received the access to the water was from the initial sale years ago. He said for most of the time one of the other property owners had kept their horses on the property. Commissioner Heumann confirmed with Mr. Goodman that the southern half of the property fed the flood irrigation to the north half. Mr. Goodman stated that that was correct.

Commissioner Heumann asked if Staff was aware of this situation and if the ditch could be moved. Jodie Novak stated that the irrigation ditch is a part of the property that is in Vintage Villas and she did not believe that the Goodman family would still have the right to use that. She was made aware of the fact that the people who lease the property still get irrigation to it in some form, but didn't know it is not known whether they have the rights to do that.

TROY PETERSON, 1035 N. McQueen Road, pointed out the location of the existing irrigation ditch, which is the southern half of what was a full 10-acre parcel that flows to the north. He stated that in past meetings, the property owner, through CMX, had committed to Mr. Goodman that if it is his desire to irrigate the property that they would run an irrigation pipe from where the last ditch ends to the southeastern corner of Mr. Goodman's property, which would provide him with irrigation. He pointed out that the irrigation is private and not within the Salt River Project jurisdiction.

Mr. Peterson said that he would also like to address Mr. Goodman's two other concerns. With regard to the domestic well rights, there is an existing well by Willis Road that serves the entire developable property plus Mr. Goodman's 5 acres, as well as the existing homes in the area. The City of Chandler Public Works department requested that the property owners tie into a water line that stubs out from the adjacent project to the east, run the water line through the street between the adjacent homes and connect to City water so that they are not relying on the well water, and then tie the water line back into the project. As part of that, a City waterline will be provided to all the properties. Mr. Peterson stated that the developer is currently trying to work this out with the property owners.

Mr. Peterson went on to discuss the third item regarding the single story homes on lots 36-42. He commented that there are no existing homes, so there is no damage being caused. The property is within the General Plan for 10,000 square foot lots just as the Vintage Villas project. Through discussions with Staff, the main thought has been that no one is being impacted. Limiting those lots to single story would in essence limit the Goodman property to the north to single story. He felt it was not a good long-term solution to limit these lots to single story.

COMMISSIONER HEUMANN asked Mr. Peterson if he would be agreeable to limiting two-story homes to no more than three lots, separated in order to break it up. Mr. Peterson commented that there would likely be at least one two-story option, although that hadn't been finalized as yet. He felt a stipulation limiting the amount to 50% two-story would not be out of order. CHAIRMAN RYAN commented that this was a reasonable request.

In discussion with Chairman Ryan, Commissioner Heumann stated that in terms of SRP, it appears that the developer is willing to work to mitigate one of the circumstances of the irrigation, and wondered if it should be put into a stipulation. Chairman Ryan stated that this was a legal issue that needed to be hashed out separately. It was his opinion that the only issue is the single story homes along the northern property line, whether to make all the subject lots single story or a portion of them, or leave it the way it is. Commissioner Heumann commented it was his opinion to limit it to "X" amount. He said there were seven lots, and he'd be happy to see no more than 3 lots, two-stories and no more than 2 together.

MOTION BY COMMISSIONER HEUMANN, seconded by **VICE CHAIRMAN FLANDERS** to approve **DVR04-0002 / PPT04-0012 VINTAGE VILLAS** with modification to stipulation No. 14 and stipulation No. 24 already read by Staff, with additional stipulation No. 25 to limit lots 36-42 to no more than 3, two-stories and no more than 2 side-by-side in any one area. **MOTION WAS APPROVED (5-0)** with Commissioner Irby abstaining.

D. DVR04-0004/PPT04-0004 WHISPERING HEIGHTS

Request initial City of Chandler zoning of Planned Area Development (PAD) along with Preliminary Development Plan (PDP) approval and Preliminary Plat approval for a 146-lot single-family residential subdivision on approximately 70 acres. The lots are at least 8,700 square feet in size. The property is located at the southeast corner of Lindsay Road and Chandler Heights Road.

Planner I THOMAS RITZ addressed the Council regarding this agenda item and explained that the request is for initial City zoning of Planned Area Development (PAD) along with Preliminary Development Plan approval for the subdivision layout and housing product and Preliminary Plat approval for a 147-lot single-family residential subdivision located on the SEC of Chandler Heights Road and Lindsay Road. He noted that the property is approximately 70 acres in size with a minimum lot size of 9,000 square feet and a density of 2.1 dwelling units per acre. He advised that staff finds the request to be consistent with the General Plan and Southeast Chandler Area Plan and recommends approval for the subdivision layout and housing product, and Preliminary Plat approval subject to conditions. He added that staff also finds the request to be in conformance with the Residential Development Standards for subdivisions.

Mr. Ritz reported that the General Plan identifies the property as Rural (Very Low Density) Residential development and said that densities of 0 to 2.5 dwelling units per acre are appropriate in this area. He added that it is also within the Southeast Chandler Area Plan and is in an area designated for development of a rural/agrarian character. He said that suitable parcels, such as this one, may be considered for "Traditional Suburban Densities: for stand alone subdivisions. He stated that features encouraged in Southeast Chandler found in this subdivision include landscaped buffers along arterial frontages, staggers and breaks along perimeter walls and larger lots providing a transition to the existing residential developments.

Mr. Ritz said that staff also looked at the proposal from a Residential Development Standards (RDS) point of view and stated that the housing product meets the RDS, including all nine required diversity elements and seven of the optional elements. He advised that discussions took place regarding transitioning from traditional residential areas to new subdivisions that are being developed and said that one of the ideas that surfaced was a transition in lot size, which this subdivision encourages. He reported that the project has gone through two neighborhood notification processes and two neighborhood meetings were held to discuss the proposals. He

advised that letters of opposition, which constitute legal protests, have been received by Staff from neighbors on both the south and east sides and referred to a map illustrating property owned by the neighbors who oppose the request. He explained that their reasons for opposition include concerns regarding higher density and smaller lot sizes, the new subdivision's lack of horse privileges, production homes being constructed in a custom home area, additional two-story homes in the area, promises of landscaped buffers between their homes and future development and perceived homebuilder's reputation. He added that additional individual meetings between the applicant and surrounding property owners have taken place and as a result of those meetings, additional surrounding property owners now support this application. He commented on the concessions the applicant has agreed to in an effort to appease the residents' concerns but reported that despite their attempts, extensive opposition to this project still remains. Mr. Ritz noted that staff has received 16 letters of opposition and explained that if the request goes before Council in its present state, that number would constitute a legal protest.

Mr. Ritz reiterated that staff finds the request to be in compliance with the General Plan, is satisfied that it meets the Residential Diversity Standards and recommends approval with the following conditions. He noted that staff wished to clarify one condition and add four additional conditions as follows: ***In some of the memos that went out, the first three lines of condition #4 were eliminated and should now read: "Construction shall commence above foundation walls within three years of the effective date of the ordinance granting this rezoning or the City shall schedule public hearings to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification;" Condition #20: "For lots adjacent to an arterial street, two-story homes are limited to every third lot; #21: Any custom plans not indicated in the Development Booklet shall meet or exceed the Residential Diversity Standards and quality representations found in the Development Booklet; #22: The rear setback on homes built on 35,000 square-foot lots shall be 30 feet; and #23: All corner lots within the residential subdivision shall be single story."***

1. Right-of-way dedications to achieve full half widths for Chandler Heights Road and Lindsay Road, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.
2. Undergrounding, if applicable, of all overhead electric (under 69KV). Communications and television lines and any open irrigation ditches or canals located on the site or within adjacent right-of-ways and/or easements in accordance with City adopted design and engineering standards.
3. Completion of the construction, where applicable, of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes. Standard details and design manuals.
4. Public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification. **(See above listed modifications.)**
5. Development shall be in substantial conformance with Exhibit A, Development Booklet. Entitled "Whispering Heights," kept on file in the City of Chandler Current Planning Division in File No. DVR04-0005, except as modified by condition herein.
6. The convenants, conditions and restrictions (CC&R's) to be filed and recorded with the subdivision shall mandate the installation of front yard landscaping within 180 days from

the date of occupancy with the homeowners' association responsible for monitoring and enforcement of this requirement.

7. The landscaping in all open spaces and rights-of-way as well as all perimeter fences and view walls, shall be maintained by the adjacent property owner or homeowners' association.
8. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls.
9. The homes shall have all copper plumbing lines for those lines under pressure.
10. The source of water that shall be used on the open space, common areas and landscape tracts shall be reclaimed water (effluent). If reclaimed water is not available at the time of construction and the total landscapable area is 10 acres in size or greater, these areas will be irrigated and supplied with water, other than surface water from any irrigation district, by the owner of the development through sources consistent with the laws of the State of Arizona and the rules and regulations of the Arizona Department of Water Resources. If the total landscapable area is less than 10 acres in size, the open space, common areas and landscape tracts may be irrigated and supplied with water by or through the use of potable water provided by the City of Chandler or any other source that will not otherwise interfere with, impede, diminish, reduce, limit or otherwise adversely affect the City of Chandler's municipal water service area nor shall such provision of water cause a credit or charge to be made against the City of Chandler's gallons per capita per day (GPCD) allotment or allocation. However, when the City of Chandler has effluent of sufficient quantity and quality, which meets the requirements of the Arizona Department of Environmental Quality for the purposes intended available to the property to support the open space, common areas and landscape tracts available, Chandler effluent shall be used to irrigate those areas.
    In the event the owner sells or otherwise transfers the development to another person or entity, the owner will also sell or transfer to the buyer of the development, at the buyer's option, the water rights and permits then applicable to the development. The limitation that the water for the development is to be owner-provided and the restriction provided for in the preceding sentence shall be stated on the final plat governing the development, s as to provide notice to any future owners. The public Report, Purchase Contracts and Final Plats shall include a disclosure statement outlining that the development shall use treated effluent to maintain open space, common areas and landscape tracts.
11. The "Public Subdivision Report," "Purchase Contracts," and CC&R's shall include a disclosure statement outlining that the site is adjacent to agricultural properties that have horse and animal privileges and shall state that such uses are legal and should be expected to continue indefinitely.
12. No more than two adjacent homes along arterial streets shall have identical roof ridgelines.
13. Minimum setbacks shall be 18' front yard, 20' rear yard (30' for two-story homes), and a minimum of 5' and 10' side yards for each lot.
14. Homebuilder will advise all prospective homebuyers of the information on future City facilities contained in the City Facilities map found at www.chandleraz.gov/infomap, or available from the City's Communication and Public Affairs Department. The homebuilder shall post a copy of the City Facilities map in the sales office showing the location of future and existing City facilities.
15. The tot lots shall be a minimum of 20 total play stations.
16. The same front elevation shall not be built on adjacent or opposite lots

17. Staggered front and rear building setbacks for adjacent house locations shall occur throughout the entire subdivision.
18. When two-story homes are built on adjacent lots, a 20-foot separation of the two-story elements shall be provided between homes.
19. The side yard setbacks shall be a minimum of 5 feet and 10 feet.

(See additional Conditions 20, 21, 22 and 23 listed above.)

Mr. Ritz added that Staff also recommends approval of the Preliminary Plat subject to:

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.

In response to a question from VICE CHAIRMAN FLANDERS, Mr. Ritz explained the technique that would be used to keep the lighting from "spilling" over onto adjacent properties. He discussed the City's standards for placement of the streetlights and said one successful technique is shielding.

Chairman Ryan asked whether an aerial photograph was available and Mr. Ritz displayed one in the Council Chambers.

Troy Peterson, 1035 North McQueen, representing the owner, commented on Condition #21 and asked whether staff was comfortable that any changes would have to come back before them. Mr. Ritz responded that staff was comfortable with that.

Mr. Petersen stated that although Whispering Heights is a new project for this Commission it does have some history connected with it. He said that the project was originally zoned the County's version of a PAD called R1-10 RUPD in Maricopa County in November 2000. He noted that the zoning was for a period of three years and the zoning approval was later extended from three years to five years, the end of December 2005. He said that when the property was originally zoned it was not contiguous to the City of Chandler and could not be annexed at that time. He stated that that was the reason why the owner of the property ran the application through the County. He advised that the owner worked closely with the neighbors and obtained their support and approximately one year ago, Brown Family Communities began work on this project. Initially, they met with City staff to discuss the project and County zoning and the nature of the discussion was that a couple of options existed, i.e. take the County plan, which would not meet the Chandler Diversity criteria and/or the Southeast Chandler Area Plan criteria; they could take the County plan and say that it has been zoned in the County and bring it into the City for water and sewer services, essentially leaving it as is or they could take the plan and upgrade and modify it in an effort to meet the Southeast Chandler Area Plan criteria as well as the Chandler Subdivision Diversity criteria.

Mr. Petersen informed the Commission that they were encouraged to proceed with efforts to make the plan "Chandler friendly" and incorporate more diversity elements. At the same time, the property annexation was also processed. He said that it was their intention to strike a balance between "dressing the plan up" to incorporate Chandler diversity elements, minimize impacts and develop a plan that was better than the County's. He noted that the first neighborhood meeting was held in April of this year and the neighbors had several concerns regarding the plan. As a result, a number of letters in opposition to the project were forwarded to the City. Following that meeting, Brown Family Communities went back to the drawing board in an effort to incorporate

as many of the concerns that were brought up in the initial meeting as possible. He reported that some of the items that were incorporated into the plan as a result of the first meeting as well as some that carried over from the original County plan resulted in the addition of a 30 foot wide buffer strip along the southern end that will actually be deeded to the owners of the frontage property for their use, allowing them perpetual access to their homes. This was the result of discussions with the City's Traffic Department, which resulted in the elimination of a collector along the southern boundary.

Mr. Petersen commented that the original County plan contained a strip that connected to the south and said that the residents in that area felt that this was not desirable from a traffic standpoint and asked that it be eliminated and it was. He noted that at the time the County plan went through there were no existing homes along the eastern boundary and their plan had 75-foot wide lots that directly back up to the eastern boundary. He said that in response to resident concerns regarding this matter, Brown Family Communities revised their plan to also take the 35,000 square foot lots and route them around the eastern side to serve as a buffer to those homes that were recently constructed. He added that in response to concerns expressed regarding two-story homes along the southern and eastern boundaries, all of the lots along the boundaries were restricted to single-family homes to reduce visibility impacts. He advised that they also have agreed to increase the rear yard setback for the lots located along the southern and eastern boundaries to 40 feet from the standard 20-foot rear yard setback for the remaining lots.

Mr. Petersen informed the Commissioners that a second neighborhood meeting was held in July 2004 and reported that some of the neighbors still expressed opposition to any lots being less than one acre in size and added that no additional plan specific comments were voiced. He said that correspondence has continued with existing neighbors in an effort to answer questions and address concerns as they have arisen. He pointed out that City staff has reviewed the application and determined that it conforms to the specific area plan for the square mile and meets the criteria for the Southeast Chandler Area Plan as well as the City's PAD and Diversity Subdivision Guidelines. He added that the plan serves as a transition from the zoned properties to the west (Valencia project) and to the north (County rural residences) and asked for approval of their request.

Chairman Ryan thanked Mr. Petersen for his presentation and announced that two citizens have expressed an interest in speaking to this issue.

Mark Carlsen, 24113 South 146th Street, addressed the Commissioners and spoke in opposition to the request. He expressed the opinion that the project is not appropriate for the area and said that in the entire square mile, nothing resembling a subdivision like this exists. He said that the only lots smaller than one full acre are almost a full mile to the south and they are single story, totally custom homes that range from $400,000 to almost $1 million apiece. He stated that the residents also had concerns regarding declining property values and safety issues. He discussed the close proximity of school, increasing traffic and animals on the properties and said that the youths will jump the fences in order to "shortcut" their way to school. He also discussed ongoing road construction and resulting impacts. He expressed the opinion that Brown Family Communities is incapable of building the type of community the area warrants and noted that they have a class action lawsuit pending against them by the owners of a subdivision of 90 homes that were affected by shifting ground and poor door and window quality, which resulted in massive amounts of water damage. He added that interest has been expressed by other developers who would build quality homes and positively rather than negatively impact property values. He said

that the statement "existing property owners now support this proposal" is false and added that on the west side they talked to four or five residents and stated that if the proposal went through, they would take care of the 30 feet on the southern border but nothing was signed by the residents in support of this proposal. He asked the Commission to protect the residents' property values and quality of life and thanked them for their time and hard work. He noted that there are many people in the audience who share his views.

Jennifer Carlsen, 24113 South 146th Street, concurred with the previous speaker's remarks and said that the impact Brown Family Communities anticipated on the school system amounted to a total of 77 additional children, which to her seems totally inaccurate based on the fact that 144 homes are planned. She added that people who will be moving in there will be families and the homes should be consistent with the area in terms of lot size, home size and price range.

Jenny Cook, 24036 South 148th Drive, asked what would happen to her address if the subdivision goes in since 148th Drive would be eliminated. She pointed to a map and showed the location of her home and Mr. Ritz explained that since the property is not being annexed into the City, it would remain under the County's address. He said he didn't anticipate that the address would change and noted what would be eliminated and the access routes that would remain available. She expressed concerns regarding the proposed changes and said that her address would not make any sense and would be difficult to locate.

Bonnie Page, 14635 E. Via de Palmas, noted the properties owned by her family on 16 acres of land in the area under discussion. She said they did not want to see a row of rooftops and stated that the neighborhood is made up of farmland and is unified. She added that she agreed with the proposed elimination of the road for safety purposes and expressed the opinion that a smaller number of homes should be constructed in that area. She advised that the entire community consists of acre plus homes and requested that the number of proposed homes be eliminated. She discussed traffic safety concerns and density levels and asked the Commissioners to protect their values and quality of life.

Robert Levione, 4045 E. Via de Palmas, said his home is adjacent to the south of lots 68 and 69 and expressed concerns regarding density, maximum fence heights that might obstruct views, accessory buildings, and potential negative impacts on property values. He said he was also concerned about the timing of the building of the fence and said that if they are going to begin construction, he really would like the fencing to be one of the first items to go in as well as the buffer zone. He explained that another existing fence needs to be removed and landscaping work will need to be done and asked for confirmation regarding the elimination of two-story buildings on corner lots.

Chairman Ryan thanked the speakers for their comments.

In response to a question from the Chairman, Mr. Kurtz said that he has frequently witnessed fencing going in during the early stages of construction to secure the site. He stated that they could stipulate that the fencing go in up front.

Discussion ensued relative to the fact that the plan calls for a general low density level of 2.5 units to the acre; the fact that the Southeast Chandler Area Plan identifies it as agrarian (acre lot sizes) and the Southeast Chandler Area Plan recognizes that there are parcels like this where the opportunity to have a large subdivision set off by itself at a high density exists; the fact that 2.1 is

below the 2.5 limit and is on the low range for many subdivisions that come in; the fact that the Development Agreement addresses fence heights and a stipulation could be added regarding this issue; the fact that accessory buildings over 6 feet in height would have to meet the 40 foot setback by Code; potential impacts on schools; traffic concerns and the fact that the intersection of Chandler Heights and Lindsey is controlled by a four way stop at the current time and signal lights should be put in place within the next twelve months; the fact that Chandler Heights along this area will be a four lane divided arterial road and road widening will occur as development progresses; the fact that the City has a plan to address traffic safety issues; and the fact that Stipulation #11 will include some acknowledgement of the dirt access by the adjacent properties so that potential homebuyers will have knowledge of a third access not maintained by the City of Chandler.

VICE CHAIRMAN FLANDERS commented on the impacts on the neighborhood despite the fact that the project meets City criteria. He stated the opinion that the Southeast Chandler Area Plan should be reviewed again as far as adjacent existing uses and their impacts but agreed with Staff's recommendation for approval.

Commissioner Irby said that as the City grows he is disappointed with the development of houses upon houses. He added that this would be a good opportunity to build on one-acre lots and said he would oppose this particular project and would like to see the developer incorporate larger lots.

Chairman Ryan expressed the opinion that acre lots are not a "given" on this parcel and thought could be given to larger lots. He added that 10 to 12,000 square-foot lots are compatible with one-acre lots. He said he could go either way on this and stated the opinion that the developers gave some thought to the concerns although the biggest problem is the orientation of the one-acre lots facing toward this development. He said he would "go with the flow" on this item and said he is getting tired of "house on house" but at the same time doesn't believe there has to be acre lots, middle ground should be an option.

In response to a question from Commissioner Polvani, Mr. Kurtz stated that the property has been annexed into the City and they are now obligated to give the land a designation that is not more intense than what was previously granted.

Commissioner Heumann spoke in support of creativity versus subdivisions and said he is not concerned about some of the sizes of the lots but he believes if they review that issue they should also re-evaluate another fenced in subdivision in this area. He spoke in support of achieving more of an agrarian feeling and doing something different. He stated that there might be things that can be accomplished through design to improve the overall aesthetics of the project.

In response to a question from the Chairman relative to continuing this item and "tweaking" the plan, Mr. Petersen responded that he spoke with his clients and requested clarification regarding the Commissioner's comments on lot sizes.

Chairman Ryan said that some of the comments he has heard is that the 5 and 10 foot setback is unacceptable and maybe 20-25 feet between houses should be looked at, and added that perhaps that could be varied. He added that perhaps they could look at a one-story product line to address concerns regarding loss of views and expressed the opinion that it hinges upon achieving lots large enough so that it feels like there is some space between the homes.

Discussion ensued relative to the fact that the plan is set up for larger side yards (20 feet) and once they get to the larger 35,000 square foot lots, the 30 to 40 foot side yard setbacks would be in place; the fact that the standard rear yard setback is 20 feet with 40 feet on the perimeter lots as previously discussed; the possibility of eliminating the "walled in" subdivision look and opening it up for compatibility and aesthetic reasons; the importance of maintaining the rural atmosphere and blending the project into the surrounding community; the applicant's intent to construct a wall to avoid trespassing issues versus maintaining views and the possibility of obtaining residents' input on this matter; the possibility of reducing the density level and maintaining views; fencing options and the applicant's opportunity to do something different.

Mr. Petersen stated that based on the Commission's input, he would like to request a continuance to work with the neighbors on this in greater detail and hopefully include some elements that will address both the residents' and the City's concerns. He said that he would like to request a 30-day continuance and Mr. Kurtz pointed out that additional time would be needed to conduct the public hearings. He recommended that the issue be continued to the November 17, 2004 Planning and Zoning Commission meeting.

COMMISSIONER IRBY **MOVED** that DVR04-0004/PPT04-0004 be continued to the November 17, 2004 Planning & Zoning Commission meeting and COMMISSIONER HEUMANN **SECONDED** the motion, which **CARRIED UNANIMOUSLY** (6 to 0).

(Chairman Ryan declared a five-minute break at this time and the meeting reconvened at the end of that time.)

G. PDP04-0019 WELLSPRING CHURCH ON DOBSON

Request an amendment to the Preliminary Development Plan (PDP) for site layout and building architecture for the construction of a new church facility on an approximate 11.5-acre parcel located at the northwest corner of Dobson Road and the future Santan Freeway.

Planner I KEVIN MAYO addressed the Commissioners regarding this agenda item and said that the request is to amend an existing Preliminary Development Plan (PDP) for site layout and building architecture for the construction of a new church facility on an approximate 11.5-acre parcel located on the northwest corner of Dobson Road and the future Santan Freeway. He noted that the site received its initial zoning for a church facility in July 2002 with a 2-year construction timing condition. A zoning extension was approved in August 2004 with timing condition for an additional 3 years. He stated that the site is currently vacant and maintained in a clean, weed free manner. He noted that the applicant is only seeking to amend the Preliminary Development Plan (PDP) in regards to one of the previously approved buildings (Building A). Due to financing issues, the applicant is proposing a reduction of the multi-use Building A from 26,000 square feet to approximately 14,500 square feet. He explained that the reduction includes eliminating the second floor, therefore affecting the building's architectural appearance. He stated that the architectural style still reflects a Spanish-Mission style and the building materials and color palette is consistent with the PDP approved for the balance of the site. The building is intended to be used as a full-sized gymnasium in the future, thus the need for a 35-foot building height and rectilinear design. He added that the remaining 27,000 square foot/1,200 seat worship center and 30,000 square foot multi-use building (Building B) containing additional classrooms and meeting rooms will remain as approved under the master PDP. He said that a master site plan is included

in the Development Booklet and it illustrates the relationship between Building A and the rest of the site.

Mr. Mayo added that the application also seeks to amend the PDP in regards to the Phase I requirements as outlined in the original PDP. Initially, Phase I included Building A, 213 parking spaces, the wedding court and the landscaped courtyard. The proposed Phase I will include the approximate 15,400 square-foot Building A, 121 parking spaces. A drop-off area, children's playground and perimeter landscaping as outlined in the site plan. He advised that staff supports the proposed Preliminary Development Plan amendment and said that the amended Building A will continue to integrate into the master site plan as future phases are developed and will not affect the overall theme for the Wellspring Church on Dobson Campus. He added that based upon the reduction in square footage, staff supports the reduction in Phase I parking.

Mr. Mayor advised that staff, upon finding consistency with the General Plan and PAD zoning, recommends approval subject to the following conditions:

1. Compliance with original stipulations adopted by the City Council as Ordinance 3384, in case DVR02-0011 WELLSPRING CHURCH ON DOBSON.
2. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "WELLSPRING CHURCH ON DOBSON," kept on file in the City of Chandler Current Planning Division, in File Number PDP04-0019, except as modified by condition herein.
3. The landscaping in all open spaces and rights-of-way shall be maintained by the adjacent property owner or property owners' association.
4. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls.

COMMISSIONER IRBY said that he requested that this item be removed from the consent agenda to possibly work with staff in an effort to craft a stipulation that contains some direction. He stated that the product in general is okay but he has concerns regarding the east elevation looking too much like tile as it turns the corner. He said he was thinking in terms of adding a dormer or the same type of element they have facing north. He emphasized the importance of working on minor things to lessen the appearance that the building has been chopped in half. He spoke in support of adding a stipulation that calls for increased architectural work to be performed on the building.

SUSAN BILLINGS, the architect for this project, addressed the Commissioners and introduced the applicant. PASTOR KELLY CARR. She indicated her willingness to work with staff to develop some type of architectural element. Commissioner Irby said that there were a number of vague issues he wasn't quite sure of in the site plan, such as the disappearance of some parking that was previously shown along the south side in Phase I and asked whether that is scheduled to come back. Ms. Billings responded that the parking will come back in Phase II and the trash dumpster that is now located along there will be relocated to the back of the project. She noted that the fire lane on the south side is the exact location where the future drive will be. Commissioner Irby stated the opinion that even minor architectural revisions and added landscaping could dramatically soften the look of the south side of the building. Ms. Billing advised that the landscape plan calls for three trees along the east elevation and said that the trees are not reflected.

Discussion ensued relative to the placement of stipulation calling for additional date palm trees in the planters on the east side to enhance the landscaping; the fact that natural light is no longer desirable in many places of worship; expending additional effort to "break up" the huge wall and minimize its size; and the fact that applicant's current intention regarding the second phase is to go ahead and provide those elevations that were initially approved.

COMMISSIONER HEUMAN concurred with Commissioner Flander's remarks relative to the importance of minimizing the height of the wall. He added that paint colors are not enough to make a difference and requested that the applicant work with staff in an effort to develop some creative and effective ideas. He said that he also had concerns regarding parking and stated that he would like to add a stipulation requiring additional parking. Ms. Billings commented that this issue had been discussed and they have no problem meeting that request.

There were no citizens present wishing to speak on this agenda item.

COMMISSIONER HEUMANN **MOVED** to approve PDP04-0019 WELLSPRING CHURCH ON DOBSON subject to the conditions recommended by staff as well as the following conditions requested by members of the Commission: #5 – Applicant to work with staff on providing additional parking, possibly using crushed gravel, in order to mitigate dust levels; #6 – Move four date trees over to the east side of the building; and #7 – to work with staff on all of the elevations in an effort to address concerns expressed by the members of the Commission (roof lines, minimizing the large wall through architectural and landscaping techniques). VICE CHAIRMAN FLANDERS **SECONDED** the motion which **CARRIED UNANIMOUSLY** (6 to 0).

H. DVR04-0028 BIAGIO, THE VILLAGE AT WILDTREE

Request an amendment to the Planned Area Development (PAD) zoning to modify a zoning condition for the traffic signal at the intersection of Chandler Boulevard and Terrace Road.

Principal Planner BOB WEWORSKI addressed the Commission relative to this agenda item and said the request is to modify a zoning condition for the traffic signal at the intersection of Chandler Boulevard and Terrace Road. He noted that the existing PAD zoning is for a mix of uses including commercial retail, office and multi-family residential located on approximately 21 acres (the northeast corner of Rural Road and Chandler Boulevard). He explained that the applicant is attempting to amend an existing zoning condition (#28), which specifically required the developer to share approximately 25% of the cost of the traffic signal at the intersection of Chandler Boulevard and Terrace Road. He noted that the applicant does not want to modify the site plan or building architecture, but seeks to amend only the traffic signal condition for the intersection at Chandler Boulevard and Terrace Road. He added that the applicant wants to change the language contained in that stipulation to provide language reflecting a cost share agreement for the cost of the light and to require that if the traffic signal is not constructed within five (5) years of the date of the stipulation, the City will return the developer's $31,251 within thirty (30) days and the developer will have no further obligation to the City of Chandler herein. If the City should approve the amended condition, all other conditions in the original approval would remain in effect.

MR. WEWORSKI discussed the traffic study that was conducted and said it showed that a traffic signal would probably be needed in approximately two years. He stated that after reviewing current traffic levels, staff does not believe a need exists for a traffic signal at this time, however, a need for a traffic signal at this intersection will arise in the future as surrounding development

occurs. He also noted that another stipulation required that at the intersection of the development's office parcel, there would right in/right out to Terrace Road. He referred to a memo received from the City Attorney's Office providing advice regarding appropriate recommendations from the Commission that would be allowed. He noted that staff is recommending denial of the request and said that they do not believe that changing the stipulation as approved would be appropriate. He added that such an action would be unprecedented and said it is not too uncommon to find developments of this sort sharing the costs associated with signal lights and other infrastructure. He informed the members of the Commission that he has also been in touch with representatives from the City's Neighborhood Coalition and reported that they strongly support staff's position.

CHAIRMAN RYAN stated the opinion that it doesn't sound "very American" to him and said he is all in favor of having the developers develop their offsite property and if signals are needed, they should pay a portion of that cost because their developments increase traffic and obligates them to pay for some of those improvements. He added that if they are going to hold the money and wait for development down the street to impact the traffic to the point where it requires a streetlight, he doesn't believe the developer should have to pay for it. He said the guy down the street should pay for it since it's his property that is impacting the traffic and creating a need for the signal. He stated that he believes it is reasonable to hold the developer's money for five years and if the traffic signal does not go in during that time, the money should be returned to the developer.

VICE CHAIRMAN FLANDERS asked whether developers are typically asked to put up a portion of the money to cover the cost of traffic signals and Mr. Weworski responded that developments frequently share in the cost of traffic signals and reported that cost percentages vary depending upon the development and the impact of the development on the intersection. He said as far as timing goes, developers typically pay the money up front and it is held onto until the traffic signal is warranted.

SCOTT SCHIRMER, representing Schirmer Ball Company, the applicant in this case, addressed the Commissioners and distributed handouts to the members depicting the site plan for the property. He noted that one of the stipulations placed on this case limits turns to only right turns out onto Terrace Boulevard from their development. He pointed to the island that prohibits traffic coming from Chandler Boulevard making a left hand turn into the property. He also referred to pages from the traffic study that was conducted in March 2001 and noted that in the conclusion section it states that the installation of the new traffic signal at the intersection of Chandler Boulevard and Terrace Road is warranted without the project. He also commented on the stipulation that prohibits traffic from flowing from Terrace into the subject property and said it decreased the amount of money they should owe for the traffic signal since they were not getting the benefit. He said the cost share amount should have been 17.2% instead of 25% and for the corner of Chandler Boulevard and Rural Road it should have been 5.2% instead of 7.5%. He stated that they didn't argue with staff's figures because they wanted to obtain approval of the project. He referred to Stipulation #28 under Tab 3 and said that it states, "the developer shall finance at least 25% of the cost of a future traffic signal at the intersection of Chandler Boulevard and Terrace Road." He stated that they have no problem with meeting their obligations financially and giving the money to the City for that stipulation. He also referred to Stipulation #30, which limits access onto Terrace Boulevard. He said they view #28 as saying "a traffic signal won't be built in the future on Terrace Boulevard. Give us 25% of what the City estimates the cost of that light will be and that will be the end of your obligation." He stated that they

agreed to that but then questioned what would happen if that improvement is never put in and could not receive a definitive answer to that question.

Mr. Schirmer said he suggested to staff that if the traffic signal is not built within five years, that the City just return the money because it is responsible for 75% of the cost. He referred to Tab #4 and said they agreed to the $31,251 as being their share of the contribution but added that staff wanted an additional five years with an inflation factor of $4,688. He advised that they did not agree with this proposal. He further stated that under Tab #5, the Commissioners will see that they submitted an offsite improvement deferral agreement and said that has not changed to the point where they are saying "when this traffic signal is built, and they are adding five years onto it now, that the applicant is responsible for coming back in, building the traffic signal at that time and paying whatever increased costs for their share at that time" despite the fact that the $31,251 has been posted in addition to the inflation factor for five years. He added that in order to make sure that no matter what the traffic signal costs, they are going to lien his property as per the agreement so that if he doesn't perform in five years, the City will then prevent tenants from going into the buildings and stop the sale of his property. He emphasized that he cannot sell the property if it has a lien on it containing an indeterminate amount of time and an undefined cost. He stated that this has turned into his obligation some time in the future to pay the cost with a lien on his property and expressed the opinion that it makes no sense whatsoever.

Mr. Schirmer said he told staff that he doesn't believe any other developer in the City has lived with this stipulation the way it is written and asked for an example. He referred the members to Tab #6 and stated that staff provided him an example that had a similar stipulation (#11) but he asked to see the development agreement for that project. He said that no one could produce a document that was similar to the one they are trying to hold him to. He emphasized that he is not trying to eliminate his obligation for the traffic signal, he is trying to pay for the traffic signal, and all he is asking for is if that signal is not built within a specific period of time that his money be returned. He stated that he has a development to sell and cannot have a lien against the property. He referred to the last Tab, #7, and said that was his suggested amendment to the stipulation. He explained that he outlined the City's costs and agreed to that and he is requesting that he gets his capital back if the City does not put in the light, which is totally under their control, within five years.

In response to a request for clarification from COMMISSIONER HEUMANN regarding Tab #5 and the lien on the property, Mr. Schirmer advised that he has not "signed off" on this proposal. Commissioner Heumann questioned whether the lien would be placed on the property if the applicant does in fact put up his share of the cost. GLEN BROCKMAN responded to a request for clarification and said he was not provided a copy of the documents that are being referred to but it sounds to him as though this was some sort of an agreement to defer the obligation. He added that the document represents a process of negotiation and has not been approved or signed.

MIKE MAH addressed this issue and advised that what has been referenced is actually a deferral agreement that defers the payment until a later date. He said this is not typically the way staff likes to work and added that most stipulations for partial or full payment for traffic signals are typically done through a lump sum paid by the developer so that nothing is recorded on the title and everything that has been referenced would not be applicable. He noted that this is the method used by other developers in similar cases, a lump sum rather than through a deferral payment, which staff believes is complicated and confusing. He added that they would prefer that a lump sum payment be made.

CHAIRMAN RYAN said that it is his understanding that the applicant is willing to give the City the $28,000 (an amount minus inflation costs) but the City is saying "that's good, but we're going to lien your property because we don't know at what point in time the traffic signal will go in and what the cost will be at that time so the lien will guarantee that you pay whatever the balance is."

MR. BROCKMAN explained that the lien is a form of security device to secure the obligation that Mr. Schirmer wants to defer and provide at another time. He said Mr. Schirmer may not be here 30 days from now and if he wants the City to defer the obligation for a certain amount of time, the City needs some security to assure that the obligation will ultimately be paid and in this case the lien was proposed.

MR. SCHIRMER responded that this is what he has gone through for a year and a half and asked the Commissioners to read Paragraph #4 of the agreement, which states: "The developer shall provide the City one or more performance bonds, letters of credit, cash or other assurance approved by the City Attorney in the total aggregate amount of $34,939." He said the assurance is he is willing to give the City cash for insurance in that amount and they still want to lien his property.

CHAIRMAN RYAN said that he is troubled that this case has come before the Planning and Zoning Commission.

COMMISSIONER IRBY agreed with the Chairman's comment and said they are here to create a modified stipulation because the applicant is willing to pay 25% of the cost. He added that perhaps they should "cut through the red tape" and add a stipulation that basically states that the applicant will pay 25% or another number they all agree upon and call it a day rather than placing a lien on the property.

Discussion ensued relative to the applicant's willingness to give the City $31,000 cash; the fact that two issues are being addressed, (1) if the money is paid there should not be a lien and (2) if the traffic signal is not built within five years, the applicant wants his money back; the fact that whether a lien is placed on the property or not should be worked out by the City's financial staff and the proposed stipulation should be based on policy; the fact that a lump sum agreement is very possible and under that agreement the applicant would end up paying the amount of money to the City that is necessary to meet the condition; the fact that the applicant is not talking about that, he is talking about "pledging" that amount of money on a deferral agreement with a guarantee of a return if the signal does not go in within five years; the fact that the basic condition hasn't changed and the applicant wants to take the administrative function of the original condition and circumvent that administration; and the fact that the City's basic policy is "pay the lump sum cost, the condition is then met but don't come back later looking for a rebate" or defer the obligation but agree to allow the City to obtain "insurance" in the form of a lien.

MR. BROCKMAN commented that the applicant is seeking a legislative action (amend the zoning) and wants a special law that someone in his situation does not get. He said that from staff's standpoint, nothing has been stated other that the applicant's opinion that in five years the signal might not be deemed necessary that indicates the signal will not be needed within a reasonable time after his development, which will contribute to the added traffic, goes in.

CHAIRMAN RYAN stated that the applicant wants the street light to go in because it will benefit his project and said you don't give $31,000 to someone without receiving something back in return. He said the applicant is saying that the traffic study shows the signal is warranted and wants it to go in within five years because he feels that his project needs the light and he is paying 25% of the cost.

COMMISSIONER HEUMANN stated that when this came through two years ago, the applicant agreed that the traffic light was warranted. He said that situations such as this occur all over the City and to sit here and say the light will go in within a specific period of time places and undue burden on other projects. He added that he agrees with staff that this is part of the process and said that that a lien would not be placed on the property if the money is put up in the form of a non-refundable payment.

MR. SCHIRMER commented that the 2002 Traffic Study indicated that a signal was warranted even before additional development took place between then and now and what he is requesting is that they place a reasonable time limit on the placement of that light because three quarters of the cost of that light will be borne by the City. He added that if they don't put in the light within five years, a reasonable amount of time, all he is asking is that his money be returned.

MR. MAW stated that it would be very difficult to pinpoint a date when the signal will be warranted and commented on the number of areas that still remain to be developed. He said that it is conceivable that if those developments include a high traffic generator, such as a restaurant, the traffic signal will then be warranted. He also noted that the impact study that was conducted in 2001 indicated that the signal but was not warranted but based on a 9% growth rate, at the time of development, it would be warranted in 2003. He reported that the 9% growth did not materialize but based on future development, the light could be warranted at any time in the future.

Discussion ensued relative to the fact that when the impact study was conducted, the 202 was not yet open; the fact that traffic on Chandler Boulevard has decreased slightly as a result of the freeway; potential increases in traffic on Chandler Boulevard as a result of development; the fact that when the condominiums go in on the northern portion of the site, there would not be any direct link to Terrace Road, there would be a common driveway through the site; and the fact that there has not been any case in which a lump sum payment for a streetlight was returned to a developer.

COMMISSIONER POLVANI said that she understands the Chairman's concern that the applicant would be paying for something he is not receiving but added that on the other hand she is uncomfortable setting a rule that should be an administrative matter. She added that if this is something the Commission should review, staff needs to provide information and recommendations, and stated that she is not comfortable saying they should do something special for this developer without hearing all of the reasons behind the current practice.

In response to a question from VICE CHAIRMAN FLANDERS, MR. MAW advised that the designation of street lighting occurs through the modeling process. He added that as far as the City's long-term plan, staff factors in "X" number of signals they feel are required but that is usually determined through traffic counts and meeting the necessary warrants. He noted that the City's Transportation Plan does not specify where the future traffic signals will be, they only allocate a certain amount of funds for "X" number of traffic signals per year. He explained that

the modeling is very coarse and typically used more for road widening purposes rather than for specific intersections. He expressed the opinion that this intersection is appropriate for a traffic signal light at the half-mile mark and quarter mile mark depending upon the density of development.

CHAIRMAN RYAN asked whether any members of the audience would like to speak on this item and requested that they come forward at this time.

MARGARET MULCACHY, 4811 West Flint Street, said many people are very excited about this project and want to know when it will go forward. She noted that the lot now contains a "bumper crop" of tumbleweeds and requested that it be built as soon as possible. She expressed the opinion that once development does occur, there will be a significant impact on traffic and a signal will be warranted. She added that if the traffic signal does not go in for several years and the cost increases, the City will not expect the applicant, who paid the lump sum amount up front, to cover the increased cost. She said that a responsible builder will be willing to put up the money to mitigate the future traffic impact of the development on the City.

BOB MULCACHY agreed with the comments of the previous speaker and said he is one of the current board members of the Wildtree subdivision. He expressed the opinion that a traffic signal is warranted at the current time and added that there is no question that the proposed development will greatly impact the traffic problem in the area. He said he believes the light will be put in way before the five-year period is up.

There were no additional speakers wishing to address the Commissioners.

CHAIRMAN RYAN stated the opinion that the issue does not belong before the Planning and Zoning Commission and said that he is upset over the entire way this has been handled. He added that he can understanding the applicant's frustration and need to get the light in but his recommendation would be to bring the matter before the City Council who might be able to get funding for the light to go in. He stated that it is important that this be done and the Commission cannot say that they will grant the applicant relief in five years if the light does not go in, that is a Council decision and outside the scope of the Commission's responsibility.

COMMISSIONER HEUMANN **MOVED** that DVR04-0028 BIAGIO (THE VILLAGE AT WILDTREE) be denied as recommended by staff. COMMISSIONER IRBY **SECONDED** the motion which **CARRIED UNANIMOUSLY** (6 to 0).

6. DIRECTOR'S REPORT

None.

7. CHAIRMAN'S ANNOUNCEMENT

The next regular meeting is Wednesday, October 6, 2004 at 5:30 p.m. in the Council Chambers.

8. **ADJOURNMENT**

The meeting was adjourned at 8:38 p.m.

_____
Phil Ryan, Chairman

_____
Douglas A. Ballard, Secretary

OCTOBER 7, 2004

TO: CITY CLERK

FROM: LINDA PORTER, CURRENT PLANNING

SUBJECT: October 7, 2004 Planning and Zoning Commission Meeting

This is to notify you that, due to the lack of a quorum, the October 6th Planning and Zoning Commission meeting was canceled.

Those Commissioners in attendance:

Vice Chairman Michael Flanders
Commissioner Mark Irby

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, October 20, 2004, held in the City Council Chambers, 22 S. Delaware Street.

1. Chairman Ryan called the meeting to order at 5:55 p.m.

2. Pledge of Allegiance lead by Commissioner Anderson.

3. The following Commissioners answered Roll Call:

   Chairman Phil Ryan
   Vice Chairman Michael Flanders
   Commissioner Jeanette Polvani
   Commissioner Rick Heumann
   Commissioner Mark Irby
   Commissioner Brett Anderson
   Commissioner Dick Gulsvig

   Also Present:

   Mr. Doug Ballard, Planning and Development Director
   Mr. Jeff Kurtz, Current Planning Manager
   Mr. Bob Weworski, Principal Planner
   Mr. Thomas Ritz, Planner
   Mr. Kevin Mayo, Planner
   Ms. Ashley Bailey, Planner
   Mr. Joshua Cook, Planner
   Mr. Glenn Brockman, Assistant City Attorney
   Ms. Kim Gehrke, Clerk

4. APPROVAL OF MINUTES

MOVED BY VICE CHAIRMAN FLANDERS, seconded by COMMISSIONER HEUMANN to approve the minutes of the September 15, 2004 meeting as presented. **MOTION CARRIED UNANIMOUSLY (6 to 0). Commission Gulsvig abstained from the vote, as he was not present at the last meeting.**

Chairman Ryan introduced the newest member of the Commission, Mr. Dick Gulsvig. He stated that Mr. Gulsvig has lived in Chandler since 1978. During this time he served on the Airport Commission in 1980 and 1981. Mr. Gulsvig was with the airport for 23 years, with Honeywell for 15 years, and currently is the General Manager for a new sheet metal shop in Phoenix. Chairman Ryan welcomed Commissioner Gulsvig and commented that he felt Commissioner Gulsvig would be an asset to the Commission.

To the audience Chairman Ryan stated that, prior to the Commission meeting, the Commissioners had met to review the Consent Items. He stated that he would read the Consent items and instructed that the Consent items would be voted on with one motion for approval by the Commission. If anyone wished to pull one of the items, they could do so after he finished reading the Consent items.

Chairman Ryan read the following items that were for consent: A. Geneva Estates; B. Desert Palms Church; C. Rancho Bernardo; D. Enterprise Rent-A-Car (with additional stipulations); F. Chandler Commons Office Park Phase II (with additional stipulations); H. Ahwatukee Children's Theatre; I. Habitat Home; J. Shabu Fondue; K. Hamilton Park; L. Desert Jewel Luxury Apartments II; M. Centro De Alabanza Juda; N. Santan Mixed Use Amended. To the audience, Chairman Ryan asked if anyone wished to pull one of the items off the Consent agenda. There was no response.

JEFF KURTZ, CURRENT PLANNING MANAGER, read into the record the additional stipulations:

B. <u>AP04-0002/DVR04-0016 DESERT PALMS CHURCH</u>

13. "*The applicant shall work with Staff to enhance the north and east elevations by breaking up the roofs and facades through additional architectural features.*"
14. "*All landscaping throughout the site shall conform to the commercial design standards with the proper mix of turf and plant material similar to the Home Depot development located to the north of the site.*"
15.*"The applicant shall work with Staff to improve the architectural integration for the monument sign at the street intersection.*"

D. <u>DVR04-0029 ENTERPRISE RENT-A-CAR</u>

3. "*The applicant shall be allocated the 12 parking spaces as represented on the site plan.*"
4.*"The rental of moving vans and moving trucks shall be prohibited on this site.*"
5. "*The rezoning is subject to the representations presented as a part of this case. Any change in the use shall be subject to zoning enforcement and/or a zoning amendment.*"

F. <u>PDP04-0020 CHANDLER COMMONS OFFICE PARK PHASE II</u>

3. "*All eight landscape islands in front of Buildings C and D along Chandler Boulevard shall be increased to nine feet in width.*"

I. <u>UP04-0034 HABITAT HOME</u>

3. "*Applicant shall install a chain link fence around the rear yard of the subject site.*"

J. <u>UP04-0036 SHABU FONDUE</u>

5. "*Applicant shall work with Staff to integrate the proposed patio into the landscape setting and maintain the architectural conformity with the surrounding site. All trees displaced by the patio design shall be relocated with like size materials.*"
6.*"Live music shall be prohibited on the outside patio.*"

Mr. Kurtz stated that this completed the stipulations. Chairman Ryan asked the Commissioners if anyone had a problem with the stipulations as read into the record. There was no response from the Commissioners.

To the audience, Chairman Ryan asked if anyone had any concerns with the additional stipulations as read into the record. There was no response from the audience.

A. DVR04-0025/PPT04-0014 GENEVA ESTATES

APPROVED, a request for rezoning from Planned Area Development (PAD) for a medium density and low-density residential development to PAD (Single-Family) with Preliminary Development Plan approval for subdivision layout and housing products, and Preliminary Plat approval. This request is for a single-family residential subdivision on approximately 100 acres located on the southwest corner of Ocotillo Road and Adams Avenue, which is one-half mile east of McQueen Road.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Geneva Estates," kept on file in the City of Chandler Planning Services Division, in File No. DVR04-0025, except as modified by condition herein.
2. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.
3. Right-of-way dedications to achieve full half-widths, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.
4. Undergrounding of all overhead electric (less than 69kv), communication, and television lines and any open irrigation ditches or canals located on the site or within adjacent right-of-ways and/or easements. Any 69kv or larger electric lines that must stay overhead shall be located in accordance with the City's adopted design and engineering standards. The aboveground utility poles, boxes, cabinets, or similar appurtenances shall be located outside of the ultimate right-of-way and within a specific utility easement.
5. Completion of the construction of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details, and design manuals.
6. Future median openings shall be located and designed in compliance with City adopted design standards (Technical Design Manual # 4).
7. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or a homeowners' association.
8. The developer shall be required to install landscaping in the arterial street median(s) adjoining this project. In the event that the landscaping already exists within such median(s), the developer shall be required to upgrade such landscaping to meet current City standards.
9. The covenants, conditions and restrictions (CC & R's) to be filed and recorded with the subdivision shall mandate the installation of front yard landscaping within 180 days from the date of occupancy with the homeowners' association responsible for monitoring and enforcement of this requirement.
10. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Public Works for arterial street median landscaping.
11. The source of water that shall be used on the open space, common areas, and landscape tracts shall be reclaimed water (effluent). If reclaimed water is not available at the time of construction, and the total landscapable area is 10 acres in size or greater, these areas will be irrigated and supplied with water, other than surface water from any irrigation district, by the owner of the development through sources consistent with the laws of the State of Arizona and the rules and regulations of the Arizona Department of Water Resources. If the total landscapable area is less

than 10 acres in size, the open space common areas, and landscape tracts may be irrigated and supplied with water by or through the use of potable water provided by the City of Chandler or any other source that will not otherwise interfere with, impede, diminish, reduce, limit or otherwise adversely affect the City of Chandler's municipal water service area nor shall such provision of water cause a credit or charge to be made against the City of Chandler's gallons per capita per day (GPCD) allotment or allocation. However, when the City of Chandler has effluent of sufficient quantity and quality which meets the requirements of the Arizona Department of Environmental Quality for the purposes intended available to the property to support the open space, common areas, and landscape tracts available, Chandler effluent shall be used to irrigate these areas.

In the event the owner sells or otherwise transfers the development to another person or entity, the owner will also sell or transfer to the buyer of the development, at the buyer's option, the water rights and permits then applicable to the development. The limitation that the water for the development is to be owner-provided and the restriction provided for in the preceding sentence shall be stated on the final plat governing the development, so as to provide notice to any future owners. The Public Report, Purchase Contracts, and Final Plats shall include a disclosure statement outlining that the Geneva Estates (DVR04-0025) development shall use treated effluent to maintain open space, common areas, and landscape tracts.

12. All homes built on corner lots within the residential subdivision shall be single-story. These lots include 1, 15, 19, 20, 28, 29, 34, 37, 38, 44, 53, 54, 56, 57, 62, 63, 70, 71, 77, 81, 82, 95, 100, 101, 110, 122, 123, 128, 139, 140, 151, 161, 165, 166, 170, 171, 180, 181, 186, 187, 192, 193, 202, 203, 212, 213, 219, 228, 229, 238, 239, 250, 251, and 255.
13. Lots 1, 16, 23, 24, 33, 34, and 255 through 268 shall be one-story only.
14. No more than 50% of homes backing up to Ocotillo Road shall be two-story with no more than two, two-stories side-by-side.
15. No more than two identical side-by-side roof slopes should be constructed along arterial or collector streets or public open space.
16. The same front elevation shall not be built side-by-side or directly across the street from one another.
17. When two-story homes are built on adjacent lots, a 20-foot separation shall be provided between homes.
18. The homes shall have all copper plumbing for those lines under water pressure.
19. The tot lot shall be a minimum of 20 total play stations.
20. Prior to the time of making any lot reservations or subsequent sales agreements, the home builder/lot developer shall provide a written disclosure statement, for the signature of each buyer, acknowledging that the subdivision is located adjacent to or nearby an existing landfill and future transfer station that may cause adverse noise, odors, and other externalities. The "Public Subdivision Report", "Purchase Contracts", and CC&R's shall include a disclosure statement outlining that the site is adjacent to or nearby an existing landfill and future transfer station, and the disclosure shall state that such uses are legal and should be expected to continue indefinitely. The disclosure shall be presented to prospective homebuyers on a separate, single form for them to read and sign prior to or simultaneously with executing a purchase agreement. This responsibility for notice rests with the homebuilder/lot developer and shall not be construed as an absolute guarantee by the City of Chandler for receiving such notice.

21. Homebuilder will advise all prospective homebuyers of the information on future City facilities contained in the City Facilities map found at www.chandleraz.gov/infomap, or available from the City's Communication and Public Affairs Department. The homebuilder shall post a copy of the City Facilities map in the sales office showing the location of future and existing City facilities.

Staff recommends approval of the Preliminary Plat subject to the following condition:

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.

B. AP04-0002/DVR04-0016 DESERT PALMS CHURCH

APPROVED, a request for Area Plan amendment from Office Showroom to Church, and Rezoning from Planned Area Development (PAD) Office Showroom to PAD (Church) with Preliminary Development Plan (PDP) approval for a church campus. The site is approximately 10 acres and located a quarter-mile south of the southeast corner of Arizona Avenue and Ocotillo Road.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Desert Palms Presbyterian Church", kept on file in the City of Chandler Planning Services Division, in File No's. AP04-0002 and DVR04-0016 except as modified by condition herein.
2. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.
3. Right-of-way dedications to achieve full, half-widths for arterial and collector streets, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.
4. Undergrounding of all overhead electric (less than 69kv), communication, and television lines and any open irrigation ditches or canals located on the site or within adjacent right-of-ways and/or easements. Any 69kv or larger electric lines that must stay overhead shall be located in accordance with the City's adopted design and engineering standards. The aboveground utility poles, boxes, cabinets, or similar appurtenances shall be located outside of the ultimate right-of-way and within a specific utility easement.
5. Future median openings shall be located and designed in compliance with City adopted design standards (Technical Design Manual # 4).
6. Completion of the construction of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details, and design manuals.
7. The developer shall be required to install landscaping in the arterial street median(s) adjoining this project. In the event that the landscaping already exists within such median(s), the developer shall be required to upgrade such landscaping to meet current City standards.
8. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or a property owners' association.

9. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Public Works for arterial street median landscaping.
10. Sign packages, including free-standing signs as well as wall-mounted signs, shall be designed in coordination with landscape plans, planting materials, storm water retention requirements, and utility pedestals, so as not to create problems with sign visibility or prompt the removal of required landscape materials.
11. The source of water that shall be used on the open space, common areas, and landscape tracts shall be reclaimed water (effluent). If reclaimed water is not available at the time of construction, and the total landscapable area is 10 acres in size or greater, these areas will be irrigated and supplied with water, other than surface water from any irrigation district, by the owner of the development through sources consistent with the laws of the State of Arizona and the rules and regulations of the Arizona Department of Water Resources. If the total landscapable area is less than 10 acres in size, the open space common areas, and landscape tracts may be irrigated and supplied with water by or through the use of potable water provided by the City of Chandler or any other source that will not otherwise interfere with, impede, diminish, reduce, limit or otherwise adversely affect the City of Chandler's municipal water service area nor shall such provision of water cause a credit or charge to be made against the City of Chandler's gallons per capita per day (GPCD) allotment or allocation. However, when the City of Chandler has effluent of sufficient quantity and quality which meets the requirements of the Arizona Department of Environmental Quality for the purposes intended available to the property to support the open space, common areas, and landscape tracts available, Chandler effluent shall be used to irrigate these areas.

    In the event the owner sells or otherwise transfers the development to another person or entity, the owner will also sell or transfer to the buyer of the development, at the buyer's option, the water rights and permits then applicable to the development. The limitation that the water for the development is to be owner-provided and the restriction provided for in the preceding sentence shall be stated on the final plat governing the development, so as to provide notice to any future owners. The Public Report, Purchase Contracts, and Final Plats shall include a disclosure statement outlining that the Desert Palms Presbyterian Church development shall use treated effluent to maintain open space, common areas, and landscape tracts.
12. Buildings within Phases Two through Four shall carry an architectural level of detail similar to buildings within Phase One.

C. <u>DVR04-0027 RANCHO BERNARDO</u>

Request for action on the existing Planned Area Development (PAD) zoning to extend the conditional schedule for development, remove, or determine compliance with the two year schedule for development or to cause the property to revert to the former Agriculture District (AG-1). The existing PAD is for a retail building on approximately 0.7 net acres at the southwest corner of 56th Street and Chandler Boulevard. **APPROVED FOR THREE YEARS.**

D. DVR04-0029 ENTERPRISE RENT-A-CAR

APPROVED, a request for rezoning from Planned Area Development (PAD) to Planned Area Development (PAD) Amended, permitting a rental-car company to locate within an existing full service car wash located at 2021 S. Alma School Road.

1. Compliance with the original stipulations adopted by the City Council as Ordinance 3313, case DVR01-0010 COBLESTONE AUTO SPA, except as modified by condition herein.
2. Sign packages, including free-standing signs as well as wall-mounted signs, shall be designed in coordination with landscape plans, planting materials, storm water retention requirements, and utility pedestals, so as not to create problems with sign visibility or prompt the removal of required landscape materials.

F. PFP04-0020 CHANDLER COMMONS OFFICE PARK PHASE II

APPROVED, a request for an amendment to the Preliminary Development Plan (PDP) for site layout and building design for Phase Two construction including two office buildings and a parking garage on approximately 14.74 acres located at southwest corner of Chandler Boulevard and Ellis Street.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Chandler Commons Office Park Phase II", kept on file in the City of Chandler Planning Services Division, in File No. PDP04-0020, except as modified by condition herein.
2. Compliance with the original stipulations adopted by the City Council as Ordinance 3219, case DVR00-0043 Chandler Commons Office Park, except as modified in condition herein.

H. UP04-0020 AWHATUKEE CHILDREN'S THEATRE

APPROVED, a request for Use Permit approval to allow a children's theatre for classes and performances within a Planned Industrial District (I-1) with a Planned Area Development (PAD) overlay. The property is located at 108 S. 54th Street within the Southgate Business Park.

1. Expansion or modification beyond the approved exhibits (Development Booklet) shall void the Use Permit and require new Use Permit application and approval.
2. The Use Permit shall remain in effect for one (1) year from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.
3. Development shall be in substantial conformance with exhibits and representations.

I. UP04-0034 HABITAT HOME

APPROVED, a request for Use Permit approval to build a single family home on a lot currently zoned MF-2 (Multiple Family Residential) at 171 East Saragosa Street.

1. Development shall occur in substantial conformance with the exhibits and representations.
2. Approval by the Zoning Administrator of all project details required by Code or condition.

J. UP04-0036 SHABU FONDUE

APPROVED, a request for Use Permit approval to sell liquor (Series 12 Restaurant License) at a restaurant at 3400 W. Chandler Blvd, Suite 5.

1. The Use Permit is for a Series 12 license only, and any change in type of license shall require reapplication and new Use Permit approval.
2. Expansion beyond the approved Floor Plan shall void the Use Permit and require new Use Permit application and approval.
3. The Use Permit is non-transferable to any other store location.
4. All gates shall be ADA compliant.

K. DVR04-0033/PPT03-0013 HAMILTON PARK

CONTINUED TO NOVEMBER 3, 2004, a request for rezoning from Planned Area Development (PAD) for Commerce Park to PAD for Single-Family residential along with Preliminary Development Plan (PDP) and Preliminary Plat approval for an 83-lot single-family residential subdivision on approximately 22.7 net acres. This property is located on the southwest corner of Pecos and Hamilton Roads.

L. DVR04-0001 DESERT JEWEL LUXURY APARTMENTS II

APPROVED, a request for rezoning from Regional Commercial (C-3) to Planned Area Development (PAD) with Preliminary Development Plan approval for a 2 building, 32-unit multi-family development located on approximately 2 acres. Each building will be two stories tall. The property is located southwest of the southwest corner of Arizona Avenue and Elliot Road.

1. Undergrounding, if applicable, of all overhead electric (under 69KV), communications and television lines and any open irrigation ditches or canals located on the site or within adjacent right-of-ways and/or easements in accordance with City adopted design and engineering standards.
2. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development, or take legislative action to cause the property to revert to its former zoning classification.
3. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Desert Jewel Luxury Apartments II" kept on file in the City of Chandler Current Planning Division, in file no. DVR04-0001, except as modified by condition herein.
4. The property owner shall maintain the landscaping in all open spaces and rights-of-way as well as all perimeter fences and view walls.
5. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls.
6. The homes shall have all copper plumbing lines for those lines under pressure.
7. Owner will advise all prospective renters of the information on future City facilities contained in the City Facilities map found at www.chandleraz.gov/infomap, or available from the City's Communication and Public Affairs Department. The owner shall post a copy of the City Facilities map in the rental office showing the location of future and existing City facilities.

8. The perimeter wall of the Sonoma Village Condominiums shall be repaired to appropriate design and construction standards prior to the occupancy of any unit.
9. The applicant shall work with Staff to provide additional popouts around second story exterior windows.
10. Access ladders for roof mounted equipment shall be internalized.

M. UP04-0029 CENTRO DE ALABANZA JUDA

APPROVED, a request for Use Permit approval for a church facility that will house the sanctuary, offices and classrooms of the Centro De Alabanza Juda church. The subject property is located at 450 South Hamilton Street.

1. Completion of the construction of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details, and design manuals.
2. Undergrounding of all overhead electric (less than 69kv), communication, and television lines and any open irrigation ditches or canals located on the site or within adjacent right-of-ways and/or easements. Any 69kv or larger electric lines that must stay overhead shall be located in accordance with the City's adopted design and engineering standards. The above ground utility poles, boxes, cabinets, or similar appurtenances shall be located outside of the ultimate right-of-way and within a specific utility easement.
3. Right-of-way dedication to achieve full half-widths, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.
4. The Use Permit shall remain in effect for two (2) years from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.
5. All pedestrian walkways shall be A.D.A. accessible and shall not be interrupted by any obstacles preventing circulation (i.e. handicap shall have direct access to all indoor and outdoor pedestrian spaces).
6. That landscaping shall be installed per Code requirements.
7. That a masonry wall be constructed along the northern, southern, and western property lines for screening purposes.

N. DVR04-0048 SANTAN MIXED USE AMENDED

APPROVED, a request for rezoning from Planned Area Development (PAD) Mixed Use to PAD Mixed Use Amended with a Mid-Rise Overlay on approximately 9.2-acres of an approximate 18.2-acre site located at the SWC of Ray Road and the Loop 101 (Price Freeway). In addition, request Preliminary Development Plan (PDP) approval for a Commercial Office and Retail development.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "San Tan Mixed Use Amended" kept on file in the City of Chandler Planning Services Division, in File No. DVR04-0048, except as modified by condition herein.
2. Right-of-way dedications to achieve full half width for Ray Road and Federal Street, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.

3. Completion of the construction of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details, and design manuals.
4. The developer shall be required to install landscaping in the arterial street median adjoining this project. In the event that the landscaping already exists within such median(s), the developer shall be required to upgrade such landscaping to meet current City standards.
5. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.
6. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls.
7. Sign packages, including free-standing signs as well as wall-mounted signs, shall be designed in coordination with landscape plans, planting materials, storm water retention requirements, and utility pedestals, so as not to create problems with sign visibility or prompt the removal of required landscape materials.
8. All perimeter landscaping along Federal Street and Ray Road shall be installed as a part of Phase I.
9. Retail A1, Retail A2 and Retail E are shown at a conceptual level only. Future PDP approval for building architecture is required.
10. The proposed median break on Ray Road shall be deleted or as otherwise approved by the Director of Public Works and ADOT.
11. The office building will be limited to five (5) stories in height. The building will be approximately 75-feet in height, with no more than a 10% variance allowed. This height is measured from the finished grade to the top of the roof deck. The building will have approximately the same square-footage as was originally approved in the PAD application of November 2003.
12. The parking structure will be no more than four (4) levels, and no higher than 37.5-feet, measured from the finished grade to the top of the spandrel panel. The stair elements are excluded from this limitation.
13. The parking structure will have no car shade canopies on the fourth (4th) level. This restriction does not apply to the canopies over the stairwells.
14. The parking garage will follow the same architectural theme as was outlined in the PAD document, dated November 2003.
15. A northbound right-turn lane will be installed on Federal Street at Ray Road by the project developer as part of the first phase of the project. The design of this turn lane will be approved by the City.
16. The parking garage will have the same landscape buffer as was contained in the zoning approval of May 13, 2004; case number DVR03-0036.
17. The developer shall post the westbound exit onto Federal Street at Ross Drive as Left-Turn and Right-Turn only.

Chairman Ryan commented that, for the record, his consent vote would not include Item N., Santan Mixed Use Amended, as he was a consultant on the project. Therefore, he would abstain from voting on that item. Also, Commissioner Gulsvig would abstain from voting on Item A., Geneva Estates, as he lives within 300 feet of the development. Commissioner Anderson abstained from voting on Item A., Geneva Estates, as his office is associated with Fulton Homes.

Before the motion, Commissioner Heumann complimented the neighborhood and the applicant on working together on Item N. Santan Mixed Use Amended. He commented that it has been a long process, but it is now a good compromise.

MOTION BY COMMISSIONER HEUMANN seconded by VICE CHAIRMAN FLANDERS, to approve the Consent Agenda with additional stipulations as read into the record. **MOTION WAS APPROVED UNANIMOUSLY (7-0).**

5. ACTION ITEMS

E. <u>PDP04-0009 BANK ONE</u>
Request an amendment to the Preliminary Development Plan (PDP) for site layout and building design for a new bank on approximately 1.12 acres at the northeast corner of Ray Road and McClintock Drive.

Ashley Bailey, Planner I, explained that this request for a new freestanding Bank One at the northeast corner of Ray Road and McClintock Drive. Council had previously granted zoning and Preliminary Development Plan (PDP) approval for the development of commercial and single family residential development called Windmills Square in April 2003. The approved mixed-use project had a CVS Pharmacy, one single user pad, three multi-tenant retail pads, and 43 single-family homes.

The PDP amendment proposes to replace one of the multi-tenant buildings along the northern portion of the commercial development facing McClintock Drive with a freestanding bank. The bank is approximately 4,000 sq. ft., single story structure with an attached drive-thru area. The building is oriented toward McClintock Drive with 5 drive-thru lanes located just north of the building. A decorative sidewalk and pedestrian seating area link the bank building to the proposed adjacent building on the bank's south side. The building architecture is a prototypical bank building that incorporates monochromatic smooth texture stucco, simulated stone veneer, and a clay tile roof. The bank's entrance projects outward from the main building in a curved fashion to allow for the doors to be recessed. Windmill Square's site layout achieves a village feel of pedestrian connections between the commercial and residential sites. This amendment doesn't allow for those pedestrian connections to be very inviting. Ms. Bailey stated that it limits the pedestrian connections with the way the five drive-thrus are set up to the north of the bank site. This 1.2-acre bank site could be considered a continuation of the commercial uses that were already proposed within Windmill Square; however, the proposed site plan should be designed to ensure pedestrian access and not obstruct it by the drive-thru lanes and increased automobile traffic near the residential element.

The Council approved PDP for this site states that the northernmost driveway along McClintock Drive provides direct access to the residential element. Previously, the pedestrian connection between the residential element and the buildings provided virtually unhindered access. At this point the proposal impedes safe pedestrian connection by placing five drive-thrus between the subdivision entrance and the remaining shops. Reducing the amount of drive-thru lanes would decrease the vehicular intensity. Additionally, the pedestrian connection at the building's rear is less inviting as a result of increased volume of cars behind the building. The proposed architecture also does not match the architectural quality exemplified in Windmill Square. The proposed multi-tenant building featured a variety of rooflines with a series of sloped and flat roofs, two-story elements, clock tower, iron architectural detailing, stone columns, and a multitude of archways and recessed areas creating pedestrian colonnades. The bank building proposes a one-story building with limited building mass and color changes incorporating one predominant roofline. The proposed building architecture lacks varied roofline ridges and pitches, iron architectural elements, second-story building masses, a clock tower, archways and recesses, four-sided architectural detailing, and fails to harmonize with the pedestrian scale of Windmill Square. Staff finds the building architecture, site layout, and a proposal with a high turnover use that is not integrated into the commercial center inconsistent with the Council approved Preliminary Development Plan. Ms. Bailey stated that Staff recommends denial.

VICE CHAIRMAN FLANDERS expressed concern with the entry gates in that if they are operated by a sensor or a card, that there may be delays, which would back up traffic in the driveway. In response, Mr. Kurtz stated that the primary access to the residential would be off Ray Road to the south. During the rezoning it was identified that McClintock would be a secondary access. From a stacking standpoint, all of the congestion should there be some, would be on-site. He stated that most gated entries are right along the street whereas this gated entry is pushed back onto the site and there is sufficient flow within the commercial area to deal with any back up that may or may not happen. Because of the design of this entry and where it's located, Staff did not apply the same circle turnaround or queuing. He went on to say that this is a fairly small-scale project and any kind of back up traffic that may occur will occur on the commercial parcel.

MIKE WITHEY, WITHEY ANDERSON & MORRIS, stated that he is representing the applicant and is standing for Mr. Jason Morris. He stated that his office just recently became involved in this case. He stated that there is obviously a difference of opinion between Staff and the bank architects that have been working on this for some time. Mr. Withey said that he knew there had been some lengthy dialogue. Mr. Withey said that they firmly believed that Commission should send this item to Design Review. He felt this would be the ideal solution at this point to work through all the issues. He stated that he would ask for the shortest time possible to make it happen.

CHAIRMAN RYAN asked Mr. Kurtz how much time he would recommend for the design review meeting and then going back to the Planning Commission. Mr. Kurtz stated that 60 days is always recommended because getting the design review together takes some time, as well as getting the drawings done takes some time. Mr. Kurtz said that the second meeting in December is December 15th.

Mr. Withey commented that his client would prefer to see December 1st, but he would leave it to Commission to make the decision. Mr. Kurtz stated that the evidence on this case to date is that Staff has not been successful in their efforts to get the building design to a point where they could recommend approval. He said that he did not have any expectation that they would be able to do anything different. He said with some stern direction to the applicant they might be able to make a shorter time frame. He pointed out that when there's a time crunch they come back to Commission without full staff report and drawings. Therefore, Staff always recommends 60 days because they know they can make that deadline.

CHAIRMAN RYAN asked if anyone in the audience wanted to go forward and speak on the item before them. There was no response from the audience.

COMMISSIONER IRBY suggested that for the design review meeting, he would like to have either Staff or the applicant bring the exterior elevations for the center so that they would be able to see how (this case) integrates with the entire shopping center and not just to the adjacent building. Also, Mr. Irby said that he had some very good ideas for the queuing issue. He commented that there are a lot of drive-thru lanes, but not a lot of queuing space behind the.

COMMISSIONER HEUMANN stated that one of the concerns with Staff is that this does not fit whatsoever with what was originally proposed. He commented that there are a lot of issues such as 5 drive-thrus, stacking, facing McClintock Drive, plane ridges, and a lot of other issues. Commissioner Heumann commented that he was in hopes that the applicant would come to the design review meeting with an open mind and willing to work with the Staff because it sounded as though there had been some adversity. He commented that if the client could come with an open mind, it would speed up the process.

VICE CHAIRMAN FLANDERS commented that the thing he liked about this original development was the village, pedestrian-oriented concept with the homes to the rear. He said that special attention needed to be paid to the drive thru canopy, the drive thru lanes (how they are viewed from the street, and also from the residence to the rear.) He said maybe the canopy profile needed to be changed. Vice Chairman Flanders went on to compliment the applicant on a project they had completed in the southeast area. The plan had just won an award this week, and he congratulated them on that award. He went on to say that he felt they are able to create something different here that would compliment the neighborhood. He said that it was very important that it integrates well with the pedestrian landscape and feel of the whole area.

COMMISSION IRBY suggested that this case be placed on the December 1st Planning Commission hearing date with the intent that if the architect or client comes with an open mind with suggestions and creative ideas on how to solve these issues. He said if this did not happen, then the case would be continued to the next hearing date. Mr. Kurtz stated it was the Commission's preference.

MOTION BY COMMISSIONER IRBY, SECONDED BY VICE CHAIRMAN FLANDERS TO CONTINUE THIS CASE TO THE DECEMBER 1, 2004, PLANNING AND ZONING COMMISSION HEARING WITH A DESIGN REVIEW MEETING IN THE INTERIM.

Before the vote was taken, Commissioner Heumann asked Mr. Withey if he felt the applicant would be comfortable with the December 1st meeting. Commissioner Heumann stated if they are going to postpone it from one meeting then it may get postponed to January, and that he didn't feel that it was fair to put pressure on the Staff. Mr. Withey said he checked with the architects and they have an open mind and big hearts and they would make every effort to come up with ideas to get it done by the 1st. If for some reason they can't, then the meeting can go to the 15th. Commissioner Heumann said that with the December holidays it may get bumped to January if they aren't ready by December 1st just because of the holidays/.

WHEN THE VOTE WAS TAKEN, THE MOTION WAS APPROVED UNANIMOUSLY (7-0).

G. <u>UP04-0019 DR. C'S NATURAL APOTHECARY</u>

Request Use Permit approval to allow a ground floor medical office in City Center District (CCD) zoning. The property is located at 141 West Boston Street in Historic Downtown Chandler.

JEFF KURTZ, CURRENT PLANNING MANAGER, stated that this application is a request for a Use Permit on property located in the downtown area within the CCD, the City Center Zoning District. The Use Permit request is to allow a medical office facility on a ground floor level. For background, Mr. Kurtz stated that the CCD Zoning District was adopted specific to the downtown square for those properties that are immediately adjacent to or surrounding the historic downtown square. One of the provisions within that Zoning District was the prohibition, except through a Use Permit consideration, of allowing ground floor offices. The goal was to provide a retail front to the downtown area as opposed to an office front to the downtown. That zoning district identified that office uses could be considered through a Use Permit, and that it the nature of this Use Permit.

The property is located at 141 W. Boston on the west side of the square, west of the immediate square. This proposal is to include a medical office facility as part of a natural apothecary. The applicant intends to provide counseling services to both patients and people who may be in the store that may be asking for help or consultation on which products to buy based upon their particular needs.

The downtown square has the prohibition for ground floor offices. This application is a bit different in that this office is a part of a larger retail establishment where one would be able to buy retail products and at the same time receive counseling. The building itself is 3,750 square feet. It is an inline building with shop space on either side of this space. The office is proposed to be 600 square feet of the overall floor plan. The applicant intends to provide additional commercial services within the 3,750 square feet. All of those uses, based upon the representations, are allowed uses under the CCD, i.e. coffee shop. The retail portion of the building as an adjunct, which the office building is an adjunct, is 1,500 square feet, so there is some footage in the back for future uses.

Staff included in the staff report what they understood to be the characteristic of the use. The doctor intends to see patients by appointment only Monday through Friday. Approximately two to three times per week the doctor will be at the retail store to meet the customers, helping them choose the natural supplements. The store will be open Monday through Friday and possibly weekends.

Mr. Kurtz noted that attached to the staff report were letters with differences of opinion from the community regarding whether this is a compatible and appropriate use to be located within the CCD district. Some of the comments have included the basic concept of having offices in any form along the downtown square. There has also been dialogue about the importance of encouraging front retail façade renovation as a condition or a part of Commission's consideration of this case.

With regard to the two points, Mr. Kurtz stated that Staff compared this use with the environment that it is within. This particular part of the downtown square does have some historic older offices located on the north side of Boston. He stated that these offices had been there for years prior to the CCD. He noted that there is a two-story office building immediately west of this suite space, again predating the CCD, but it does have an office use in it. From a compatibility standpoint, and from the relationship the fact that this office is an adjunct relationship to the retail sales, Staff felt it was a compatible use.

The second issue as it relates to the façade upgrade, Mr. Kurtz noted that Staff has met with the applicant and explained the various options that the City offers for help in doing façade renovations in the downtown area. The applicant has indicated that he's interested in those programs, but not in façade improvements to that degree at this time. From Staff's perspective, they did not evaluate this use with any possible linkage to a façade upgrade, but simply evaluated it from a compatibility standpoint, and there are the ongoing programs for façade upgrades renovations should the applicant decide to take advantage of the program.

Staff recommends approval. Mr. Kurtz stated that he did not know if there would be any testimony, but Commission did have evidence of their opinions and how they feel about this application.

VICE CHAIRMAN FLANDERS asked what the percentage of retail to office is with this case. He commented that when reviewing the floor plan he noticed that there were two offices right at the street with doors going out onto the street. He wanted to know if this was intended to be part of the applicant's facility. Mr. Kurtz stated that roughly one-half would be retail and 600 sq. ft. would be office. He went on to explain that there was a portion that was a different tenant that did convention set-ups and was separate from the application.

Referring to the floor plan, COMMISSIONER GULSVIG questioned an area on the plan where the use had not been designated. In addition, Commissioner Gulsvig questioned the use of an apartment that was shown on the floor plan. In response to the first question, Mr. Kurtz explained that the original drawing called this area out as a coffee shop, using the rear yard in conjunction with that. He further explained that according to the representation presented to Staff, the apartment would not be used as an apartment. Commissioner Gulsvig commented that in the notes it indicated that the apartment would not be used at this time. He asked if that left the door open, simply because it said that it wouldn't be used as an apartment, was there a possibility that it could be used as an apartment. Mr. Kurtz stated that the representation was

that it would be used as an apartment, that was the record, and that was what Staff was going on. Mr. Kurtz stated that if Commission wanted further definition of that, it might be appropriate to condition that representation as the fact that it would not be used as an apartment. Commissioner Gulsvig asked if it would a mixed-use application if it were to be used as an apartment. Mr. Kurtz noted that it would be; it's being used as an apartment now by the current owner during the winter. Commissioner Gulsvig stated that he wanted to see a stipulation to ensure that it's as the applicant applied for.

CHAIRMAN RYAN stated that he felt it was important to partner with the downtown business people and wanted to see the project continued. He requested that Staff overview a meeting with the downtown people so that it becomes reasonable to make sure it doesn't get out of hand. Chairman Ryan commented that he did not have a problem with the use; however, he noted that he was not the one investing his money downtown. He felt that support should be shown to the businesses in the downtown area. Chairman Ryan said that the businesses have monthly meetings and that Staff should sit in on one of them. He went on to say that this applicant is the owner of this building and he felt that, whether this use fails or doesn't fail, he wanted to see the upgrades done to the building as it hadn't been cared for in the past.

DR. THEO CHRISTODOULAKIS, stated that he filed the application for the Use Permit, but had not said anything about renovating the building as yet. He stated that he planned to go in for six months to one year to see how his business was growing, and then within three years, see how the downtown develops and from there take it on. He stated that it was not his intention to make any structural changes at this time, but to keep it the way it is. He further commented that everyone keeps referring this as a medical office. He said this is not a medical office; it is a naturopathic office and that there is a difference between a naturopathic office and a medical office. He said it is basically an apothecary and by definition it is a retail shop where medicinary and all different articles are sold. He stated that where's there an apothecary there is a doctor, and taking a doctor away from an apothecary is like taking a pharmacist away from a pharmacy. It doesn't function.

Mr. Christodoulakis also corrected the staff report pertaining to 137 W. Boston Street not being occupied. He stated that it is occupied as an office by Harold and Sue Sorenson. It was his understanding that the office had been there since they purchased the building. It is Mr. Christodoulakis' intention to purchase the building.

In response to questions from Commissioner Irby, a conversation ensued with Mr. Christodoulakis pointing out various building occupants and explained some of their professions. With regard to the applicant's portion of the building, Commissioner Irby asked the applicant to explain the office/storage as indicated on the floor plan. The applicant responded that he wanted to make another office or split it up for storage space for his supplements. He pointed out the retail portion for selling supplements. He said that his supplements would be high-grade professional line supplements such as those that are sold to doctors. Commissioner Irby stated that he did not have a problem with the use, but did understand that offices on the first floor are discouraged, and with case, there are technically three offices on the ground level. He went on to say that he wanted to see this case continued so that the applicant could meet with the local business owners to rally their support. Also, he stated that he wouldn't have a problem with stipulating store exterior upgrades within a one-year period. He said he preferred to see the retail space carried across the street frontage

portion and push the office to the back so that the office is not what is perceived from the street. Mr. Christodoulakis said he explored having the possibility as the entire front as retail, but explained that due to the placement of a supporting wall, it would be very expensive to knock it down. Commissioner Irby said there were several options that could be taken and that it was a good idea to meet with the downtown people to find out where they are coming from.

VICE CHAIRMAN FLANDERS commented that he felt that having the continuance so that the applicant can meet with the downtown group is a good idea. He felt that the applicant would have the chance to introduce himself and spell out a timetable for his business establishment and any improvements that were being planned. He went on to say that he didn't have a problem with an office on the ground floor of the downtown area and thought that at times it's a good blend. He said he felt that it was important that the downtown group understand what the applicant is doing and that Mr. Irby's comment about providing more of a frontage with the retail and pushing the office to the rear.

COMMISSIONER HEUMANN confirmed that the current owners were prior to the CCD. He went on to ask what the functions were of the doctor when a patient came into the office for a consultant. Mr. Christodoulakis stated that the difference between a medical doctor M.D. versus a naturopathic doctor, which is N.M.D., is that the consultations are longer and usually take an hour. He went on to explain a scenario of a consultation, the time it takes, and methods of treating patients. He stated that it could also be an acupuncture session. The consultations could be at the front of the store and perhaps a receptionist. Commissioner Heumann pointed out that the intent of the CCD is for the front of the store to be retail and the consultation is more secondary instead of primary. He felt this case should be continued in order for the applicant have the opportunity to meet with the CCD people to see exactly what's going on so that he could be a partner in the CCD. He went on to say that it's important that the facades need to be considered. He wanted the applicant to meet with the CCD and city Staff to get a feel for what the goals are for the downtown area.

COMMISSIONER IRBY suggested that the applicant bring back before Commission photographs of the existing building and any examples of improvements he intends to make to the façade, colors of paints, awnings, etc., as well as a timeline of when the improvements will be made.

The applicant responded that this is was just a Use Permit. It's his feeling that he wants to see how his business is doing before making any improvements. Commissioner Irby said that he understood that to be the case, but also felt it would be better for the applicant to bring back to Commission his ideas of what kind of improvements would be made to upgrade the building in the future. He stated it would give Commission more leverage to give the applicant some time to do the improvements by way of stipulations.

COMMISSIONER GULSVIG requested that since this Use Permit was for only for just a part of the existing building, that a stipulation should be added that specified such. Mr. Kurtz verified that that was correct; that this Use Permit was for just a part of the building and that it should be specified.

VICE CHAIRMAN FLANDERS confirmed that any renovations to the building would have to go through the downtown board. Mr. Kurtz confirmed that to be the case. Commissioner Flanders said it would be a good idea to know what other improvements had occurred in the downtown areas had been taken advantage of the programs available.

CLAUDIA WHITEHEAD, DOWNTOWN COORDINATOR FOR THE CITY OF CHANDLER, stated that there are several programs that are available in the downtown area that have been extensively used. One of the programs if for façade improvements to restore the facades to the original historic look; another program is the downtown improvement fund to help attract new retail into the area as far as helping with tenant improvements for the new businesses. She went on to say that the City of Chandler had invested extensively in the area as far as Capital Improvements to aid in marketing the area. The subject block, which was being discussed, had not utilized those programs to that extent. She stated that she had spoken with the applicant and explained the available programs. Ms. Whitehead commented that everyone would like to see the west block of Boston Street be improved, and that she had spoken with other owners on the block about the programs that are available, especially the façade improvements.

KATHY BAXTER, CENTURY 21 RAN REALTY, 2994 E. TULSA STREET, GILBERT, AZ, stated that one of the stipulations for the buyer of this property is that they be able to use the property, otherwise the property would not be purchased and would just sit there like it is. This property had been on the market for over one year, the area looks very bad, and she felt that anything done in this area would be an improvement.

QUYNHCHI VU, 2402 E. TORREY PINES LANE, CHANDLER, stated that she is part owner of the business and is the marketing portion of the business. She stated that they know what is available for them to do as it relates to the façade. She said it is definitely something they want to do because of the cul-sac-location of the business and that they are keeping that in mind. She went on to say that they needed the Commission's approval as the sale is pending on the approval. Chairman Ryan explained that they understand the urgency; however, but felt it would short-sided of the Commission to not get back some feedback from the downtown businesses. He said that those people have taken the same chances that the downtown would be successful. He feels it's important that we partner with the downtown as much as it's important that the applicant partner with the downtown group. He went on to say that the Commission is settled that the applicant attend one of the downtown meetings in order to present their ideas on what they have planned to do to the business. He felt that the downtown group might not fully understand what the business consists of. Ms. Vu stated that she was not aware that they were required to attend the meetings in order to get approval from the committee before getting Commissions approval. She pointed out that they were investing money and time, and they were running out of time. Chairman Ryan explained the notification and hearing process and explained that those people that receive the mailings may come before the Commission to speak either in favor or in opposition. He went on to say that they are not doing anything new, but pointed out in this case it was a bit unusual in that the Use Permit is going against the grain of what the downtown committee has requested be maintained; i.e. the office portion. He felt was important that if the applicant wants to get the use requested from the Commission, that at least they go to the downtown group and discuss this use. Chairman Ryan stated the delay would probably be less than 2 months. Ms. Vu stated that she intends to attend the downtown group meeting, but wanted some kind of sense of when she might get her approval. Mr. Kurtz stated that he intended to go to the meeting.

It was decided that there would be a 2-week continuance for this case. Commissioner Heumann reiterated that the applicant needed to also bring back to Commission those things that were being requested such as any ideas for improvements they have planned. He explained that the downtown Chandler is a very crucial part of the city redevelopment. Ms. Vu said that she prefers the offices be pushed to the back and the retail to the front because that is where the money is. To the applicant, Chairman Ryan said that when the applicant come back to the Commission in 2 weeks, and after the applicant feels like she's gotten at least the majority of the downtown owners support, the Commission wants to hear from the applicant: "This is my Plan." "I am going to operate this business." "It will take me approximately one year or it will take me 18 months to get it off the ground." "At the end of that period, these are the improvements that I plan on doing to the façade of my building." Chairman Ryan pointed out to the applicant that they have to commit to that because it was going to be made a part of this stipulation of this Use Permit. If they commit to 18 months or 2 years, whatever it is, for these improvements, then they have to stand by that or they will be standing in front of the Commission again at the end of that period, with the possibility of losing the Use Permit. He instructed the applicant that they need to think it through as its very important, that they need to look at it from a business standpoint, what they think the business has the potential of doing, and how quick they can start turning a profit and how quick they can start making improvements to the front of the building. Those were the main objectives.

To the applicant, VICE CHAIRMAN FLANDERS suggested that both Mr. Kurtz and Ms. Whitehead have information on what could be done as far as renovations to the face. It would give them a good idea and would be easier for them to verbalize it to the downtown group. Ms. Vu said that she is aware of the programs and would make use of that and was committed. She went on to explain her background in retail.

MOTION BY COMMISSIONER HEUMANN, SECONDED BY COMMISSIONER IRBY, TO CONTINUE THIS CASE TO THE NOVEMBER 3, 2004, PLANNING AND ZONING COMMISSION MEETING. THE MOTION WAS APPROVED UNANIMOUSLY (7-0).

6. **DIRECTOR'S REPORT**

None.

7. **CHAIRMAN'S ANNOUNCEMENT**

The next regular meeting is Wednesday, November 3, 2004 at 5:30 p.m. in the Council Chambers.

8. **ADJOURNMENT**

The meeting was adjourned at 7:10 p.m.

_____
Phil Ryan, Chairman

_____
Douglas A. Ballard, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, November 3, 2004, held in the City Council Chambers, 22 S. Delaware Street.

1. Chairman Ryan called the meeting to order at 5:40 p.m.

2. Pledge of Allegiance lead by Commissioner Gulsvig.

3. The following Commissioners answered Roll Call:

   Chairman Phil Ryan
   Vice Chairman Michael Flanders
   Commissioner Jeanette Polvani
   Commissioner Rick Heumann
   Commissioner Mark Irby
   Commissioner Brett Anderson
   Commissioner Dick Gulsvig

   Also Present:

   Mr. Doug Ballard, Planning and Development Director
   Mr. Hank Pluster, Long Range Manager
   Mr. Jeff Kurtz, Current Planning Manager
   Mr. Bob Weworski, Principal Planner
   Mr. Thomas Ritz, Planner
   Mr. Kevin Mayo, Planner
   Ms. Ashley Bailey, Planner
   Ms. Kim Clark, Planner
   Mr. David de la Torre, General Plan Coordinator
   Mr. Glenn Brockman, Assistant City Attorney
   Ms. Linda Porter, Clerk

4. APPROVAL OF MINUTES

MOVED BY VICE CHAIRMAN FLANDERS, seconded by COMMISSIONER IRBY to approve the minutes of the October 20, 2004 meeting as presented. **MOTION CARRIED UNANIMOUSLY (7 to 0).**

To the audience Chairman Ryan stated that, prior to the Commission meeting, the Commissioners had met to review the Consent Items. He stated that he would read the Consent items and instructed that the Consent items would be voted on with one motion for approval by the Commission. If anyone wished to pull one of the items, they could do so after he finished reading the Consent items. Chairman Ryan read the following items that were for consent: Items A, C, D, E, F, H, and J. To the audience, Chairman Ryan asked if anyone wished to pull one of the items off the Consent agenda. There was no response.

JEFF KURTZ, CURRENT PLANNING MANAGER, read into the record the additional stipulations:

A. DVR04-0034/PPT04-0016 CARDINAL HEALTH

4. *The circular design elements identified on the monument signs shall be incorporated on all signs to maintain a consistency for the sign package.*
5. *The tree sizes along Ryan Road shall include a mix of 50% - 36" box trees, and 50%- 24" box trees.*
6. *Date palms shall be planted at the building entrances.*

C. DVR04-0033/PPT03-0013 HAMILTON PARK

14. *AMENDED by adding the additional words. "The sub-divider/homebuilder/developer shall display in a conspicuous place within the sales office a map illustrating the location of the subdivision in relation to adjacent uses, including but not limited to, the commercial big box uses at the intersection of Arizona Avenue and the future Santan Freeway."*
20. *No more than 50% of homes or no more than two, 2-story homes shall be built along Hamilton Road.*
21. *Pedestrian access shall be provided to the open space located along the western property line.*

E. GOINS AUTOMOTIVE

7. *AMENDED to include a sentence that says, "The designated parking spaces for the display area will be the first two spaces at the building's northwest corner."*
8. *The hours of operation shall be Monday through Friday, 9 a.m. to 6 p.m.*
9. *The rolling gate along 79th Street shall remain closed.*

Mr. Kurtz went on to explain that in deference to Commission's direction, the applicant is didn't want to add the automatic closing gate, but committed to Staff and through the stipulation that the gate would remain closed. He stated that if Commission wanted more dialogue with the applicant, that that would be appropriate.

F. UP04-0035 JOHN BISHOP, M.C., P.C.

3. *The parking lot along Iowa is to be screened with low decorative walls and enhanced landscaping.*

COMMISSIONER IRBY questioned Item E, Goins Automotive as he thought that the stipulation for the gate would indicate it as being a solid material. Mr. Kurtz revised the stipulation by stating, *"The rolling gate along 79th Street shall be a solid material and remain closed."* Commissioner Anderson said that would be fine as it would be an enforcement issue should there be any problems.

To the audience, Chairman Ryan asked if anyone wanted to have anyone of the consent items pulled off the agenda for discussion. There was no response from the audience.

A. DVR04-0034/PPT04-0016 CARDINAL HEALTH

APPROVED, A request for an amendment to the Planned Area Development (PAD) zoning to modify a zoning condition for building height to allow a warehouse/distribution facility with Preliminary Development Plan (PDP) and

Preliminary Plat approval. The site is approximately 21 acres and located on the northwest corner of Ryan Road and Stearman Drive.

1. Compliance with the zoning conditions contained in Ordinance No. 2996, except as modified herein.
2. Stipulation No. 16 of Ordinance No. 2996 is amended to allow a maximum building height of 45 feet and as follows, no television, communication towers, or stand-alone antennas shall be constructed on the property. All structures and appurtenances on buildings shall be limited to 45 feet above the surrounding grade or less. All structures on the property shall remain below the protective surfaces as defined in Federal Aviation Regulation Part 77 and detailed in the Airport Layout Plans.
3. All temporary retention basins and future building pads shall be protected with a 2-inch decomposed granite covering.

Staff recommends approval of the Preliminary Plat subject to the following condition:

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

C. <u>DVR04-0033/PPT03-0013 HAMILTON PARK</u>

APPROVED, a request for rezoning from Planned Area Development (PAD) for Commerce Park to PAD for Single-Family residential along with Preliminary Development Plan (PDP) and Preliminary Plat approval for an 83 lot single-family residential subdivision on approximately 22.7 net acres. This property is located on the southwest corner of Pecos and Hamilton Roads.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "HAMILTON PARK" kept on file in the City of Chandler Planning Services Division, in File No. DVR04-0033, except as modified by condition herein.
2. Right-of-way dedications to achieve full half-widths, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan
3. Undergrounding of all overhead electric (less than 69kv), communication, and television lines and any open irrigation ditches or canals located on the site or within adjacent right-of-ways and/or easements. Any 69kv or larger electric lines that must stay overhead shall be located in accordance with the City's adopted design and engineering standards. The aboveground utility poles, boxes, cabinets, or similar appurtenances shall be located outside of the ultimate right-of-way and within a specific utility easement.
4. Completion of the construction of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details, and design manuals.
5. The developer shall be required to install landscaping in the arterial street median adjoining this project. In the event that the landscaping already exists within such median(s), the developer shall be required to upgrade such landscaping to meet current City standards.
6. The development shall provide sound attenuation measures in accordance with ADOT standard details and requirements excepting any decibel reductions or sound attenuation credits for the use of a rubberized asphalt-paving surface. Any noise mitigation if required is the responsibility of the development.
7. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine

compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.

8. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls.
9. The covenants, conditions and restrictions (CC & R's) to be filed and recorded with the subdivision shall mandate the installation of front yard landscaping within 180 days from the date of occupancy with the homeowners' association responsible for monitoring and enforcement of this requirement.
10. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or a homeowners' association.
11. The source of water that shall be used on the open space, common areas, and landscape tracts shall be reclaimed water (effluent). If reclaimed water is not available at the time of construction, and the total landscapable area is 10 acres in size or greater, these areas will be irrigated and supplied with water, other than surface water from any irrigation district, by the owner of the development through sources consistent with the laws of the State of Arizona and the rules and regulations of the Arizona Department of Water Resources. If the total landscapable area is less than 10 acres in size, the open space common areas, and landscape tracts may be irrigated and supplied with water by or through the use of potable water provided by the City of Chandler or any other source that will not otherwise interfere with, impede, diminish, reduce, limit or otherwise adversely affect the City of Chandler's municipal water service area nor shall such provision of water cause a credit or charge to be made against the City of Chandler's gallons per capita per day (GPCD) allotment or allocation. However, when the City of Chandler has effluent of sufficient quantity and quality which meets the requirements of the Arizona Department of Environmental Quality for the purposes intended available to the property to support the open space, common areas, and landscape tracts available, Chandler effluent shall be used to irrigate these areas.

    In the event the owner sells or otherwise transfers the development to another person or entity, the owner will also sell or transfer to the buyer of the development, at the buyer's option, the water rights and permits then applicable to the development. The limitation that the water for the development is to be owner-provided and the restriction provided for in the preceding sentence shall be stated on the final plat governing the development, so as to provide notice to any future owners. The Public Report, Purchase Contracts, and Final Plats shall include a disclosure statement outlining that the Dobson Crossing development shall use treated effluent to maintain open space, common areas, and landscape tracts.
12. The homes shall have all copper plumbing for those lines under water pressure.
13. Homebuilder will advise all prospective homebuyers of the information on future City facilities contained in the City Facilities map found at www.chandleraz.gov/infomap, or available from the City's Communication and Public Affairs Department.
14. The following stipulations shall be the responsibilities of the sub-divider/homebuilder/developer and shall not be construed as a guarantee of disclosure by the City of Chandler:

    a) Prior to any lot reservation or purchase agreement, any and all prospective homebuyers shall be given a separate disclosure statement, for their signature, fully acknowledging that this subdivision lies within the Chandler Municipal Airport

Impact Overlay District, as specified in the Chandler Zoning Code. The disclosure statement shall acknowledge the proximity of this subdivision to the Chandler Airport and that an avigational easement exists and/or is required on the property, and further, shall acknowledge that the property is subject to aircraft noise and overflight activity. This document signed by the homebuyer shall be recorded with Maricopa County Recorders Office upon sale of the property.

b) The subdivider/homebuilder/developer shall also display, in a conspicuous place within the sales office, a map illustrating the location of the subdivision within the Airport Impact Overlay District, as well as the noise contours and overflight patterns, as identified and depicted in the document entitled *Chandler Municipal Airport, F. A. R. Part 150, Noise Compatibility Study, Noise Compatibility Program, Exhibit 6A (Potential Airport Influence Area)*, as adopted by the Chandler City Council (Resolution No. 2950, 11-5-98). Such map shall be a minimum size of 24" x 36".

c) The above referenced information shall also be included within the Subdivision Public Report to be filed with the State of Arizona Department of Real Estate, as required by Arizona Revised Statute 28-8486 and Arizona Revised Statute 28-8464.

d) Compliance with this condition shall be demonstrated by the subdivider/homebuilder/developer by submittal of a signed affidavit and photograph that acknowledges this disclosure and map display prior to beginning any sales activity. Failure to comply with this condition will result in revocation of the Administrative Use Permit for the temporary sales office. All requirements as set forth in this condition are the obligation of the subdivider/homebuilder/developer and shall not be construed as a guarantee of disclosure by the City of Chandler.

e) The subdivider/homebuilder/developer shall provide the City with an avigational easement over the subject property in accordance with Section 3004 of the City of Chandler Zoning Code.

f) All homes and buildings shall be designed and built with noise attenuation construction to achieve an interior noise level of 45 decibels for a single event from an aircraft. A registered engineer shall certify that the project is in conformance with this condition.

g) The Final Plat shall contain the following statement on the cover sheet in a prominent location and in large text:
"This property is located within the Chandler Municipal Airport Impact Overlay District and is subject to aircraft noise and overflight activity, and is encumbered by an avigational easement to the City of Chandler."

15. Prior to the time of making any lot reservations or subsequent sales agreements, the home builder/lot developer shall provide a written disclosure statement, for the signature of each buyer, acknowledging that the subdivision is located adjacent to or nearby a future heliport at the Chandler Municipal Airport that may cause adverse noise, odors, and other externalities. The "Public Subdivision Report", "Purchase Contracts", and CC&R's shall include a disclosure statement outlining that the site is adjacent to or nearby a future heliport, and the disclosure shall state that such uses are legal and should be expected to continue indefinitely. The disclosure shall be presented to prospective homebuyers on a separate, single form for them to read and sign prior to or simultaneously with executing a purchase agreement. This responsibility for notice rests with the homebuilder/lot developer and shall not be construed as an absolute guarantee by the City of Chandler for receiving such notice.

16. Corner lots shall be limited to one-story homes only.
17. The same elevation shall not be built side-by-side or directly across the street from one another.
18. For lots adjacent to an arterial street, two-story homes are limited to every third lot.
14. A full Sound Study shall be submitted and kept on file in the City of Chandler Planning Services Division, in File No. DVR04-0033.

Staff recommends approval of the Preliminary Plat subject to the following condition:
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.

D. <u>GPA02-0002 TRE'VICINO GENERAL PLAN AMENDMENT</u>

APPROVED, a request to amend the General Plan by re-designating approximately 49.4 acres located south and east of the southeast corner of Knox Road and Arizona Avenue from Employment and Strip Commercial to Low-Medium Density Residential.

E. <u>UP04-0023 GOINS AUTOMOTIVE</u>

APPROVED, a request for Use Permit approval for an automobile customization shop with incidental vehicle sales within a Planned Industrial Zoning District (I-1) at 4041 W Milky Way.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet entitled "Goins Automotive", kept on file in the City of Chandler Planning Services Division, in File No. UP04-0023, except as modified by condition herein.
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 remain in effect for three (3) years from the effective date of the City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.
4. Sign packages, including free-standing signs as well as wall-mounted signs, shall be designed in coordination with landscape plans, planting materials, storm water retention requirements, and utility pedestals, so as not to create problems with sign visibility or prompt the removal of required landscape materials.
5. On street parking will be prohibited. All vehicles must be parked within designated parking spaces inside the paved parking lot, fenced yard, or inside the building.
6. The sliding doors on the building's north elevation must remain closed unless vehicles are being transported between the parking lot and the showroom floor.
7. Outdoor display of vehicles for sale is limited to a maximum of two vehicles at all times. Such display must occur within onsite-paved parking spaces and is prohibited on the sidewalk along the building's north elevation. Vehicle sales information is limited to one window sticker only that may not exceed the size and scope of the representation made within the development booklet. Any other means of advertising of vehicles for sale such as banners, balloons, etc. is prohibited.

F. UP04-0035 JOHN K. BISHOP, M.C., P.C.

APPROVED, a request for Use Permit approval for one (1) year to operate a counseling office in a portion of a residence within a Single-Family Residential (SF8.5) Zoning District. Property is located at 498 W. Chandler Blvd, at the northeast corner of Chandler Blvd. and Iowa Street.

1. The Use Permit shall be effective for one (1) year from the date of Council approval. Use Permit extensions, for similar or greater time periods, shall be subject to re-application to and approval by the City of Chandler.
2. Any expansion or modifications beyond the approved exhibits shall void the Use Permit.

H. UP04-0027 COMMERCIAL PAINTING, INC.

APPROVED, a request for Use Permit approval to operate a motor vehicle and equipment, paint and bodywork business within an I-2 zoned district for property located at 400 E. Ray Road.

1. All vehicle and equipment, paint and bodywork, shall occur within the building.
2. All signage, whose text shall be limited to business name identification only, shall be in conformance with the Chandler Sign Code.
3. Failure to comply with these conditions, upon standard notice issued by the City, will constitute revocation of the Use Permit without further action.
4. The Use Permit is effective for a period of one (1) year from the date of City Council approval. Operation of the business beyond the one-year time period shall require re-application to and approval by the City.
5. A 6-foot high concrete block wall shall be constructed along the Ray Road frontage. Details to be worked out with Staff.
6. The landscaping along Ray Road shall be upgraded to meet current Code.

J. PPT04-0023 MCQUEEN VILLAGE SQUARE

APPROVED, a request for Preliminary Plat approval of a commercial subdivision located at the southwest corner of McQueen and Ocotillo roads.

MOTION BY COMMISSIONER HEUMANN seconded by VICE CHAIRMAN FLANDERS, to approve the Consent Agenda with additional stipulations as read into the record. **MOTION WAS APPROVED UNANIMOUSLY (7-0).**

5. ACTION ITEMS

B. DVR04-0044 CEDAR PROFESSIONAL CENTER

Request rezoning from Agricultural District (AG-1) to Planned Area Development (PAD) with Preliminary Development Plan (PDP) approval on approximately 1.5-acres for the construction of a Medical/General Office building located south of the southeast corner of Ray and McQueen Roads.

KEVIN MAYO, PLANNER, explained that the property is surrounded to the north and east by the existing residential subdivision, Superstition Ranch. To the south is a city park and west is residential land zoned AG-1. Mr. Mayo went on to illustrate that the approximate 14,000 square foot, 2-story building is located in a landscaped setting along McQueen Road. The building's architectural style is that of a classic style. While the style is not represented in the adjacent

neighborhoods, the materials that are used are similar such as concrete roof tile elements, wrought iron railing, precast concrete columns, and stucco, and stacked stone accent columns. To address a concern regarding the overall massing and to bring the building to a pedestrian scale, Staff added a condition for the applicant to install stacked stone seat walls at the four corners of the building.

Mr. Mayo went on to say that the request also included a comprehensive sign package, which consists of flat black, pin mounted, metal letters, non-illuminated. There is a single monument sign, which is 7 ft. tall and is architecturally unique. A third tenant panel is requested (Code permits up to 2), and Staff does support the request based on the design of the sign and also due to the limited visibility for the tenants. Mr. Mayo stated that Staff recommends approval of this request based on the following stipulations:

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "CEDAR PROFESSIONAL CENTER" kept on file in the City of Chandler Current Planning Division, in file number DVR04-0044, except as modified by condition herein.
2. Right-of-way dedications to achieve full half width for McQueen Road, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.
3. The landscaping in all open spaces and rights-of-way shall be maintained by the adjacent property owner or property owners association.
4. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls.
5. Sign packages, including free-standing signs as well as wall-mounted signs, shall be designed in coordination with landscape plans, planting materials, storm water retention requirements, and utility pedestals, so as not to create problems with sign visibility or prompt the removal of required landscape materials.
6. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.
7. Completion of the construction, where applicable, of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details, and design manuals.
8. The applicant shall work with Staff to incorporate seat wall planters at the base of the corner columns.
9. The site shall be limited to a single monument sign along McQueen Road.

CHAIRMAN RYAN asked the applicant to come forward.

MR. GILBERT ASSAKER, 3344 W. Megan Street, Chandler, AZ 85226 stated that he was in attendance during the Study Session. Chairman Ryan explained that there wasn't a concern about the use or the office, but instead the architectural mass of the two-story building due to the way the building has been designed.

Mr. Assaker stated that the building architecture is that of Catalonian style, which is a mix between the Athens, Greece and country style old French. He stated that he did not use too much of the style as he wanted the building to blend in with the surrounding neighborhood. Mr. Assaker said he was unhappy with the exhibits that had been provided and explained that the perspective was computer generated and was more like a construction document instead of an architectural rendering. He said they were on very short time-line to get the exhibits and the architect was out of town. Mr. Assaker described the columns on the sides of the building and their attempt to put a curve on the building so that the building would not look like a square box. He commented that the building looks bulky on paper, but the lot was 64,000 sq. ft. and the building base is less than 11% of the lot. He stated that he would be happy to sit down with the design review committee.

Chairman Ryan said that he thought it would be best to go into a design review meeting fairly soon to hash out some ideas. He said it would make the building look better as the building presently looks out of character for the area. Mr. Assaker said they had picked the Catalonian style after extensive studies, but went on to state that he'd be willing to sit down with the committee if there is a better way of doing it.

COMMISSIONER IRBY stated that there would need to be a color board at the time of the design review meeting. Kevin Mayo stated that he would see that a color board was provided. Mr. Mayo stated that the original colors elevations were very skewed, and the colors in the Development Booklet were as close as they could get. Chairman Ryan asked that the color chips be brought to the meeting as well as the tile samples and brick samples to give the design review team a better idea. Mr. Assaker stated that the color on the building is not a solid color, but rather a faded color and has a sand finish. He said that he had tried to imitate the European style.

COMMISSIONER IRBY went on to say that there should also be some plant material shown up against the building. He commented that landscaping and trees in the right place could soften up the impact with the neighbors. He also questioned the signage. Mr. Assaker replied that there would be signage on the north, south, and west sides of the building.

COMMISSIONER IRBY commented that architecturally there are some good elements. He said that it comes across in the presentation as looking too squatty and vertical and that the columns looked too thin and fragile. He suggested coming up with a gable at the entry feature or doubling up on the columns, as well as thickening up the stone. He also made a comment with regard to the mansard roof.

RANDALL EWERS, 11611 N. 12th Terrace, Phoenix, AZ stated there are no mansard roofs due to the square building, which is wrapped round in shape, similar to what you might see in a coliseum area. He went on to say the columns are spread out and that the landscaping is underneath the balconies, up the foot of the building increasing the rural feeling. He said that the next rendering they bring in would show all the plants. Commissioner Irby indicated that they should also show the corner bench and show how it functions, as well as a roof plan.

Staff was asked when this case would be continued to. Mr. Kurtz stated that, based on the particulars of this case, he would recommend continuing the case to the December 15th Planning and Zoning Commission meeting.

VICE CHAIRMAN FLANDERS stated that he did not have a problem with the architecture, but did have a problem with the proportions and the relationship between the front canopy and the windows. He suggested the columns be adjusted to provide a clear view out of the building. He also suggested that the applicant pay more attention to the details in order to provide a clearer picture.

COMMISSIONER HEUMANN commented that it appeared there would be a lot of signage and that it would take away from the architecture. He suggested the applicant consider a directory versus installing several individual signs. Mr. Assaker said there would be four on the first floor and four on the second floor (depending on the number of doctors), as well as on the north and south side elevations. Commissioner Heumann suggested they take a second look at the signage.
MR. ASSEKER responded that physicians like to see their signs, their names, displayed on the building. He said that the first floor is 7,000 square feet so perhaps only one or two doctors will occupy that space and then there will be less signage displayed there. He added that the south and north elevations will have signage for each tenant. Commissioner Heumann reiterated his request to look at this issue and said he believes when they are talking about medical offices and labs, that amount of signage may not be necessary or appropriate.

COMMISSIONER ANDERSON commented on the landscape on the east and north perimeters of the project and asked whether larger trees should be required since the site backs up to a residential area. MR. MAYO advised that they would have a land use buffer with a minimum of ten feet in height with the trees planted 20 feet on center.

The Chairman asked whether any members of the audience wished to speak on this item and there being none, he thanked everyone for their input and called for a motion.

MOTION BY VICE CHAIRMAN FLANDERS, SECONDED BY COMMISSIONER IRBY TO CONTINUE THIS CASE TO THE DECEMBER 15, 2004, PLANNING AND ZONING COMMISSION HEARING WITH A DESIGN REVIEW MEETING IN THE INTERIM. THE MOTION CARRIED UNANIMOUSLY (7 TO 0).

G. <u>UP04-0040 THE WILD HARE</u>

Request Use Permit extension to continue to sell all types of liquor for on-premise consumption only in a portion of an existing restaurant (Series 12 or Restaurant License) located at 4910 W. Ray Road, Suite #3 (Northeast corner of Rural and Ray Road).

TOM RITZ, PLANNER, addressed the Commission regarding this agenda item. He noted that it is a request for a use permit for continued alcohol sales in a portion of an existing restaurant (Series 12 Restaurant License). He said that this issue has been before the Commission on two previous occasions and each time the applicant was granted a one-year time period. He stated that over the last year, the applicant has made improvements to the rear patio area, storage area, screening a portion of it with a wire mesh screen, additional awnings and additional landscaping. He said that this was an item of concern to the Commission last year. He noted that the business has been audited by the State and they have determined that he continues to qualify as a restaurant and the applicant notes in his narrative that he assumes the role of "doorman" requiring identification after 8 p.m., restricting it to over age 21.

MR. RITZ said that when staff looked at this application, they had several concerns including the impact of this from the perspective of the Police Department, and they told us that they did not have any concerns. He noted that the restaurant is located in the same shopping center as the Chandler Sunset Library and so they asked the Community Services Director, who is responsible for the library, whether they had any concerns and they did not. He added that staff also requested that the applicant contact the other tenants in the center and they responded with no concerns. He noted that a year ago, the Coffee Plantation had a different owner and was open in the evening but now the business closes at 9:00 p.m. and the Good Egg closes at 2:30 p.m. so there is no longer any evening interference. He reported that the applicant is the only business with alcohol sales in the shopping center and the Mobil on the Run on the corner sells alcohol to go. Mr. Ritz stated that staff recommends approval with no time conditions subject to the following stipulations and added that he was willing to respond to any questions from the members of the Commission:

1. The Use Permit is for a Series 12 license only and any change of license shall require reapplication and new Use Permit approval.
2. Expansion or modification beyond the proposed floor and patio area plan shall void the Use Permit and require new Use Permit application and approval.
3. The Use Permit is non-transferable to any other location.
4. Outdoor music or live entertainment shall be prohibited.
5. No alcohol shall be carried outside of the building into the parking lot or off-premises.
6. Umbrellas placed on the patio facing Ray Road shall be solid, full color with no lettering.
7. Banners installed visible from Ray Road for special events shall be installed for a maximum of one week.

In response to a question from **COMMISSIONER HEUMANN, MR. RITZ** stated that the library is open until 9 p.m. The Commissioner referred 3-page report from the Police Department, which dates back to 2002 and asked why staff was recommending no time stipulations when beginning in 2003 there were assaults, suspicious person vehicle, child abuse, disorderly conduct, loud disturbing noises, indecent exposure, DUI, and fight-in-progress calls. He stated the opinion that there seems to be a pattern of police calls to that location (Wild Hare, Coffee Plantation and the Good Egg).

MR. RITZ agreed that a pattern of police calls does exist but said that is why staff asked the police whether they had any additional concerns regarding this matter and they indicated that there were not. He added that the business continues to operate as a restaurant and the State, in talking with our Tax and Licensing people, rarely audits anyone but when they do, they audit very thoroughly in order to determine that the facility still operates as a restaurant. He said that given its location, the restaurant is buffered from residential development to the north by the body of the shopping center, buffered by Ray Road and another shopping center to the south. He stated that the business continues to operate as a restaurant with the externalities they have had of noise and odors that sometimes plague other restaurants.

CURRENT PLANNING MANAGER JEFF KURTZ added that the way the police report was prepared, there was a code included – a number 3 – and said those are the ones that are particular to this tenant and the balance of the reports were generated either from the shopping center or other tenants.

COMMISSIONER HEUMANN commented that based on the history associated with the business and area, a recommendation of no time stipulation is not warranted. He added that he would like to move forward with a one or two-year time stipulation and said that hopefully when the case comes back before the Commission there won't be any police calls to the area for assaults and other similar criminal activities. He said he appreciates the efforts of the owner in monitoring the door and ensuring that only youths over the age of 21 are allowed on the premises after 9 p.m., but stated that this is still a fairly hefty residential neighborhood in close proximity to a park. He noted that he requested that this case be pulled due to the fact that staff was recommending that it be approved with no time stipulation.

VICE CHAIRMAN FLANDERS commented on similar uses in the area (Long Wong's, Teakwood Tavern, etc.) and asked whether the calls to the Wild Hare were similar in nature or more than usual.

MR. KURTZ responded that staff did not conduct a comparative analysis such as the one the Vice Chairman is referring to but said they could if that was the desire of the Commission. He added that staff relies on feedback they receive from the police department and whether they have concerns or objections and in this particular case, they did not have any concerns or objections.

Discussion ensued relative to the fact that there have not been any calls to the establishment during the past year (since 2003).

CHAIRMAN RYAN asked whether staff had visited the site and verified that everything that had been requested has been accomplished and Mr. Ritz confirmed that this was done. **COMMISSIONER HEUMANN** referred to the police reports and said there's no motion of what prompted the incidents. He added that in theory the assaults, etc. may have occurred in this general vicinity but not inside the bar itself. **MR. RITZ** agreed with the Commissioner's statement and stated that staff would have to conduct additional research to determine the exact location of the incidents.

Additional discussion ensued relative to the fact that one of the incidents occurred at 2 a.m. and the fact that The Wild Hare, and possibly the Mobil service station and the fitness club are the only businesses that would be open at that time.

MR. LAUREN POND, representing HH3 Enterprises, dba the Wild Hare, the applicant in this case, addressed the members of the Commission and said that prior to the Study Session he received a copy of the police reports that were being discussed. He said that the indecent exposure incident on 10/13 involved a gentleman over at the coffee shop and various places around the plaza. He added that the last incident listed had a 17 code, which means "no report made." He said that an incident might occur once in a while such as someone not wanting to leave the premises when asked to because they are legally required to limit the amount of alcohol a customer can have. He advised that the business is open until 2 a.m. and he is on site frequently, usually when he is not expected to be there. He added that he has a management team that works with him when he is not on site.

Additional discussion ensued relative to the fact that all of the previously requested improvements were completed during the beginning of the time period and not as a "last minute effort;" the fact that staff is recommending that the use permit be issued without any time stipulations; a statement from the applicant regarding the fact that the business has operated at the

current location and has tried to be an asset for the City of Chandler; the fact that previous issues with the owner of the Coffee Plantation have been resolved and the applicant is now on good terms with the owner of that business; and the fact that the State requires that 40% of the businesses' gross sales be food related and the applicant has met that requirement.

MR. POND advised that the only music or live entertainment they have is a disc jockey who operates a couple days a week, typically on the weekends. He added that he does not plan to have any life music.

Staff advised that the use permit stipulation that prohibits live music and entertainment is related to the patio area, a prohibition against any outdoor music or entertainment. Indoor entertainment was not prohibited. **MR. POND** stated that they have not had any live music on the patio and explained that the reason that stipulation came about is because he wanted to avoid any future noise problems with the Coffee Plantation owners. He added that there is no residential development nearby.

CHAIRMAN RYAN thanked Mr. Pond for his comments and asked whether anyone in the audience wished to speak on this agenda item. There being none, he asked for a motion.

COMMISSIONER HEUMANN commented that he doesn't have a problem with the operation itself, he has a problem with eliminating a time stipulation, and said he would like to place a 2-year time limit on the user permit. He said if in two years there have not been any problems, he would not have a problem approving an unlimited use permit.

COMMISSIONER HEUMANN MOVED to approve UP04-0040 The Wild Hare for an additional two-year period of time.

VICE CHAIRMAN FLANDERS said before he seconded the motion he would like to know how the "time stretch" occurs between renewals. **MR. RITZ** responded that it is often 1, 3, 5 and unlimited terms for use permits. He confirmed that this is the third request for an extension and on the two previous occasions the use permit was approved for one-year periods of time.

VICE CHAIRMAN FLANDERS SECONDED the motion for purposes of discussion. He stated that he would prefer approving a 3-year rather than 2-year extension.

VICE CHAIRMAN FLANDERS MOVED to amend the motion to approve a 3-year use permit for the continued alcohol sales. **COMMISSIONER HEUMANN** SUPPORTED the proposed amendment and withdrew his original motion. He also emphasized the importance of ensuring that enforcement takes place so that the use permit is not pulled in the future. He added that the applicant has put forward a good effort and encouraged him to continue to do so in order to reduce the number of incidents to a minimal amount in this area.

The motion **CARRIED UNANIMOUSLY** (7 TO 0).

I. UP04-0019 – DR. C'S NATURAL APOTHECARY

Request Use Permit approval to allow a ground floor medical office in City Center District (CCD) zoning. The property is located at 141 West Boston Street in Historic Downtown Chandler.

MR. KURTZ addressed the members of the Commission regarding this agenda item and said that this is a request for a use permit to allow a ground floor medical office within the CCD (City Center) Zoning District in the downtown area at 141 West Boston. He noted that the case was continued from the Commission's most recent meeting and the Commission's direction to the applicant and the staff was to take the opportunity during the continuance to meet with the other merchants and downtown residents and solicit input as to whether they believe the use is appropriate in the downtown area. He added that they were also directed to use the opportunity to reassess the floor plan layout with perhaps the idea of moving the office into more of the rear of the store and keeping the front of the store for retail service. He said they were also asked to attempt to "firm up" in more detail the applicant's renovation plans for the building. He stated that all of the directives have been accomplished and the material is before the Commissioners. He noted that there are a number of downtown merchants present who would like to provide input this evening. He said there is a letter in their packets from the DCCP (Downtown Chandler Community Partnership) and advised that they were kind enough on two separate occasions to meet with the applicant in an effort to understand the use and then amongst themselves they held a second meeting. He noted that the letter from the DCCP is the result of their input to the Commission regarding this case.

MR. KURTZ commented that there were a series of floor plans included in the packets and said that these were provided by the applicant in an effort to identify the various phasing of improvements that would occur short-term, prior to the opening of the facility and then long-term. He noted that the floor plan before them this evening is a revised floor plan and pointed out that the office area has been moved more to the back of the space and the front has been identified for retail, with a counter and shelving unit along the front. He explained that that would be part of the initial phase of development prior to opening the store and said that the second part of the initial development phase is identified in a letter from a contractor which identifies the various building code renovation (electrical/plumbing) that would need to be done in addition to any other Building Code required items. He added that Phase I and Phase II represents what would need to be done for the initial opening of the store. He said that Phase I and Phase II also includes some limited upgrading to the front of the store and noted that historically there were retail windows that have since been stuccoed over and the applicant intends to reopen those windows for their storefront appeal. He added that the building current has two single doors and the applicant intends to eliminate the two single doors and replace them with one double door in an effort to recapture the retail image.

MR. RITZ said that in Phase III, (over the next 3 to 5 years) the applicant intends to install a coffee and tea shop in back of the store, a use that is already allowed by right under the CCD and said this is just a little better picture of what the applicant plans to accomplish. He stated that as far as any exterior facade renovations, those along the historic character appropriate for the downtown, the applicant has expressed to staff and to the DCCP a desire to make those historic improvements and work with adjacent owners of adjacent businesses in an effort to come up with a unified development plan for the frontage. He noted that no time period or detail has been specified. He commented that the DCCP met and their letter recommends that the Commission deny the application. He added that the CCD does contain some specific direction relative to not allowing ground-floor office in order to capture retail and the letter references their input to the Commission that they want to maintain that non-office approach to the ground-floor retail.

MR. RITZ noted that staff's recommendation has not changed since the last meeting and said that the floor plan is an enhancement in their opinion (capturing the retail frontage along the entire front of the building) and said the facade improvements are unrelated to the Use Permit but they understand the concern. He stated that from an impact standpoint, the office is a relatively minor portion of the overall floor plan, a 300-square foot office, and pointed out that at the previous meeting it was represented as a 600-square foot office. He said that represents less than 10% of the overall floor plan. He stated that staff believes the office portion is accessory, adjunct to the primary retail purpose of the building but added that they also understand the concern that it not turn into a full-scale office. He noted that there is a collection of different uses in that part of the downtown square and some feature offices, it is not out of character with those uses. He said that staff is here to listen to what the Commission has to say given the new information and indicated their willingness to provide any additional information available. Mr. Ritz recommended approval of the request.

VICE MAYOR FLANDERS commented that the plan says Space 135 and it appears that they are leaving that portion out. He said it is his understanding that that is an existing office and will remain so. MR. RITZ stated that is another clarification that staff received during the last Planning Commission meeting and added that a question still remains as to what would happen with that. He advised that it is in a separate tenant space that is part of the ownership of the building and the applicant has now represent to staff that they would not expand into that space, they would continue to use it as a tenant rental space. He said that at the current time it is a laser exhibitor with storage of exhibits and office for that particular tenant so it has both a storage and office use right now. He confirmed that no retail sales are taking place at that location. The Vice Chairman asked when the tenant eventually moves out whether the space would be used as an exclusive retail space. Mr. Ritz said that staff did not receive clarification on that matter.

DR. THEO CHRISTODOULAKIS, the applicant in this case, addressed the Commission and said that as investors, they wish to bring their business and money to downtown Chandler and they are a one-of-a-kind specialty store geared towards more affluent people. He added that they are making more money selling supplements than their office visits. He noted that retail is not only selling high quality products, it is also providing an excellent service. He said that after the Commission's direction to meet with the downtown committee, there was a meeting on the 21st that they attended to find out exactly what it is they wanted them to do. He stated that they recommended that the office space be moved to the back leaving the whole front retail. He advised that they agreed to do so. He added that another meeting was held on the 28th and although they wanted to attend that meeting as well, they were not invited and could not attend. He said they thought it was a "given" that they wanted to beautify the building and pointed out that they brought in a contractor on February 2nd to assist them in doing this. He stated that they have a petition that began that morning and it contains signatures from Chandler residents, some of whom are business owners in the downtown area, and emphasized that there are also people out there who support the project.

CHAIRMAN RYAN asked to look at the petition and asked how many were from residents/business owners in the downtown Chandler area. Mr. Christodoulakis responded that out of the 25 signatures, approximately 60% are from Chandler residents, and approximately 3 are downtown residents/business owners.

QUYNHCHI CHRISTODOULAKIS advised that Phase I includes estimates on what the applicants would like to do with that particular building.

Discussion ensued relative to the fact that the applicant has another practice in downtown Phoenix which he plans to keep open; the fact that appointments to answer questions (not consultations) in Chandler would be scheduled for one or two days a week; the fact that the applicants believe the business would be 80% retail and 20% appointments; the fact that the Phoenix practice has no retail component and most of the Phoenix customers will come to Chandler to purchase supplements; the fact that supplements are "dispensed;" the possibility of hiring a design professional to obtain recommendations on aesthetically improving the building; the fact that Phase IV is not really a phase, it is just a compilation of all of the drawings on one sheet; the possibility of stipulating that the outside renovations are to be completed within a one-year period of time; the applicant's opinion that it would take one to two years to complete the improvements based on the fact that it will take 6 to 8 months to redo the inside; the applicant's intention to improve the outside to a much greater degree; the fact that the windows and double door will be put in right away (6 to 8 months); and the fact that review by the Architectural Review Committee is a requirement that the applicant will have to meet

CHAIRMAN RYAN stated that a couple of citizens have submitted requests to speak and asked them to come forward at this time. Mr. Jack McCormack requested that the other speaker, Frank Peake, present his comments first.

FRANK PEAKE, 2693 E. Birchwood, spoke in opposition to the approval of this application. He noted that he is a member of the DCCP, which represents approximately 40 members, both businesses and stakeholders in the downtown area. He noted that four members of the DCCP who are opposed to this application are present at the meeting. He commented that the applicant attended the DCCP's October 21st meeting and presented a clarification on their application for a Use Permit. He said that following that meeting the Board held a subsequent meeting to discuss Board's concerns and/or support for the proposal and said concerns remained that the proposal did not meet the CCD zoning designation for retail or for medical use, concerns regarding the timeline for the facade improvements, and a concern that the products to be sold were not conducive to the retail environment they are trying to create in the downtown area. He added that the spirit of the downtown area, in trying to develop a unique, strong retail environment especially around the City square area, requires that retail be the primary use. He stated the opinion that the use does not appear appropriate for a pedestrian friendly atmosphere and said while the DCCP appreciates the applicant's response to their concerns, they continue to recommend denial for their application for a Use Permit.

JACK MCCORMICK said that he is the owner of property located just west of the applicant's property. He noted that he previously sent a letter to the Planning and Zoning Commission about the previous meeting that he was unable to attend. He stated that he purchased the building at 149 West Boston in 1999 and as a result of extensive remodeling, he turned the building into a historic building over a two-year period of time at a cost of approximately $850,000. He said that he is very concerned about what is going to happen on his block and pointed out that he owns one half of Boston Street, from the applicant's building west to California Street. He commented on the extensive work that was done to his building in order to ensure that the building fit the character of downtown Chandler. He added that they also cleaned up the entire west end of Chandler Boulevard.

MR. MCCORMICK said that he is very happy about the fact that the City of Chandler presented him with a Pathfinder's Award last year, the highest award the City could bestow upon him. He noted that Boston Street comes across to the west and referred to charts depicting his property and the applicant's. He said he believes the paperwork before the Commission states that the office space would occupy less than 10% of the property and expressed the opinion that the combination of office and retail space is larger than that and inappropriate for the area. He stated concern that improvements to the facade of the building will experience major delays while the applicant generates sufficient monies to cover the cost of the work. He added that his major concern is that the applicant has indicated to staff that they hope to add a nurse, a receptionist and two doctors as the office expands and asked how four people could work out of two 10 x 10 offices (220 square feet). He pointed out that offices for business, professional uses are allowed in the CCD District while medical, dental, blood banks and clinics are now allowed. He added that opinion that allowing office space instead of full retail on the ground floor would be a step backwards and pointed out that the City rejected a request for a ground floor office for The Tribune. He urged the members of the Commission to deny the applicant's request.

GLENN BROCKMAN addressed the Commission and referred to the section of the zoning code referred to by Mr. McCormick and said it was established when the CCD District was established. **COMMISSIONER HEUMANN** asked from a legal point of view whether the use is allowable. **MR. BROCKMAN** responded that staff does not believe that the retail portion does not constitute a medical or dental office, blood bank or clinic and so the retail portion should be permitted as a matter of right. He further stated that the reason for the Use Permit is because of the proposed use of the naturopathic office on the ground floor. He added that such uses can be allowed under a Use Permit and that is why the applicant is applying for one.

COMMISSIONER HEUMANN asked whether as part of the use permit conditions could be set that have to be met such as completion of facade improvements prior to opening, etc. **MR. BROCKMAN** said that staff looks at the proposed use they are asking a permit for and look at how that impacts the downtown. He added that they then determine whether issues like the facade improvements should be stipulated. He explained that if the impact of the use is substantial enough to justify for example requiring the facade improvements, there is no problem. He added, however, if the impact of the proposed use is essentially tenant interior improvements without structural changes or expansions, and is considered a limited adjunct piece to the retail, it is difficult to see how requiring a full facade improvement is a proportionate response based on the anticipated impact. He emphasized that it is the Commission's decision to make and staff will support whatever decision is made. He added that it appears to him that the applicant has opened up the possibility of doing the facade improvements.

MR. MCCORMICK read a fax from the applicant to the City of Chandler dated October 4th that stated that *"the doctor's office provides customer service such as nutritional evaluations and so forth and the doctor intends to have a part-time receptionist, a nursing assistant and possibly hire*

a second doctor to handle the growth of the office." He questioned how the Doctor could accomplish that in a 200-square foot area. He added the opinion that he plans to grow and do more than sell vitamins and offer the limited services mentioned.

NIELS KREPKEE, a downtown property owner and a member of the Board of the DCCP, said that he is the Chairman of the Architectural Review Committee and is concerned with what he has heard this evening. He noted that any changes to the facade would have to come before the committee, as previously stated by Mr. Kurtz, and based on past meetings with applicants regarding facade renovations, they have held the applicants up to a pretty high standard. He said his concern would be that the applicant would be financially unable to meet the requirements. He added that he also has concerns regarding enforcement to ensure that the office component remains in the two small offices. He commented that as property owner in the downtown area, there have been many people interested in placing medical/dental uses in the area and because of their interpretation of the zoning code, they never even thought of approaching the Committee to bring a tenant such as that forward. He said if this was allowed he believes it would be a step backwards and not in keeping with the plans for the downtown area.

DR. CHRISTODOULAKIS clarified that another doctor would only be brought in when he was on vacations and said he would only be in the office once or twice a week. He said that he is a naturopathic doctor (NMD) and added that the American Medical Association does not consider NMDs to be medical doctors. Mrs. Christodoulakis said that the product is specialized and is prescribed or recommended by someone who specializes in the area. She expressed the opinion that the retail will be used much more than the office.

COMMISSIONER HEUMANN asked Mr. McCormick if he could look at the fax that he previously referred to and was provided a copy.

COMMISSIONER POLVANI asked staff whether the Use Permit, if approved, would restrict the applicant's ability to expand beyond the 10%. **MR. KURTZ** responded that what the Commission has before them is a specific representation and any changes or expansion to that representation would require a new Use Permit

In response to a question from **COMMISSIONER HEUMANN** relative to enforcement, **MR. KURTZ** said that staff gains the information in several different ways, including the issuance of building permits, etc. He explained that staff would first attempt to deal with the issues through enforcement, the applicant always has the ability to amend their Use Permit if they find they are in violation.

COMMISSIONER GULSVIG expressed concerns regarding the DCCP Commission when they met and the conversation that took place at that time. **ERNIE SERRANO,** President of the DCCP thanked the Commission for allowing them to discuss the use before the Commission voted on it. He said the applicant showed up, their meeting was the next morning, and he just happened to be watching it and the applicants came in a little late and were afforded as much time as possible to cover everything but there are 20 board members and they all want to ask questions. He said unfortunately the meeting did not end until around 9:30 and another meeting was scheduled for 9 o'clock and that is why we decided to adjourn and hold another meeting a week later where they all got together. He stated that the applicant was asked many questions and they wanted to make sure that retail rather than office was located in the front. He reported that the applicant agreed to make the changes but added that the biggest point or concern was whether

people would come to the downtown area for vitamins, was it the right use for that location. He commented on difficulties associated with rendering decisions on issues such as this but emphasized that they are trying to stay within City ordinances. He requested that the Commission deny the use and said they believe it is not appropriate for that location. He noted that other businesses in the area are not in compliance and they do not want to see the problem escalate.

MR. SERRANO said there was no timeframe given for the facade work and this was also a concern.

MR. BROCKMAN clarified that the issue is not the retail portion of the proposal, one of the permitted uses is drug stores without drive-through facilities and this use with just the retail would seem to fit the definition of specialty retail and to be the equivalent of a drug store in a broad sense. He added that the sole issue is the office. He noted that as originally proposed neither the retail or the adjunct office involved any type of need to change the facade at all and the retail could have gone in without a Use Permit. He said that now as presented with the proposed changes to the facade, requiring that as part of the Use Permit would be permitted. He added that the other issue he is hearing has to do with phasing and said that if it is phased there is a concern whether funds will be available to do that.

CHAIRMAN RYAN stated the opinion that the issue should not be this difficult but because it is, he tends to believe it is wrong. He stressed the importance of looking at what is good for downtown development and noted the effort and money expended by Mr. McCormick on his property. He said he is one of 30 or 40 people who have spent that type of money. He added that downtown development is unique and specialized and their problem is determining whether the proposed use is compatible and because of the mixed use (medical and office) it raises questions. He said he will have to side with the other business owners who have invested time and money and expressed the opinion that the proposed use is not the right thing to do.

COMMISSIONER GULSVIG stated that his concern has to do with a simple paragraph in the staff report having to do with hiring a second doctor and agreed with Mr. McCormick's comment that it would be difficult to accommodate all of those people in 200 square feet of office space. He said he worries that eventually the retail would not grow but the doctor part of it would. He advised that he would not support the applicant's request.

COMMISSIONER IRBY commented that another problem is the fact that it is not an established business and is a new kind of business. He said he fears it might not evolve into something that is appropriate for the downtown area. He said that he would endorse the recommendation of the DCCP.

Additional discussion ensued relative to the importance of not allowing the project to move forward without having a clear plan in place as to how the front exterior of the building will be renovated and the fact that an approved design and clear cut completion timeframe would also be necessary.

COMMISSIONER HEUMANN MOVED THAT UP04-0019 – DR. C'S NATURAL APOTHECARY BE DENIED. COMMISSIONER IRBY SECONDED THE MOTION WHICH CARRIED UNANIMOUSLY (7 TO 0).

CHAIRMAN RYAN explained that the Commission members serve as a recommending body to the City Council and they will have the final say on November 18, 2004.

6. DIRECTOR'S REPORT

None.

7. CHAIRMAN'S ANNOUNCEMENT

The next regular meeting is Wednesday, November 17, 2004 at 5:30 p.m. in the Council Chambers.

8. ADJOURNMENT

The meeting was adjourned at 7:43 p.m.

_____
Phil Ryan, Chairman

_____
Douglas A. Ballard, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, November 17, 2004, held in the City Council Chambers, 22 S. Delaware Street.

1. Chairman Ryan called the meeting to order at 5:38 p.m.

2. Pledge of Allegiance lead by Commissioner Heumann.

3. The following Commissioners answered Roll Call:

   Chairman Phil Ryan
   Vice Chairman Michael Flanders
   Commissioner Rick Heumann
   Commissioner Mark Irby
   Commissioner Dick Gulsvig

   Absent and Excused: Commissioners Anderson and Polvani

   Also Present:

   Mr. Glen Van Nimwegen, Assistant Planning & Development Director
   Mr. Hank Pluster, Long Range Manager
   Mr. Jeff Kurtz, Current Planning Manager
   Mr. Bob Weworski, Principal Planner
   Mr. Thomas Ritz, Planner
   Mr. Joshua Cook, Planner
   Mr. Glenn Brockman, Assistant City Attorney
   Ms. Linda Porter, Clerk

4. APPROVAL OF MINUTES

   MOVED BY VICE CHAIRMAN FLANDERS, seconded by COMMISSIONER HEUMANN to approve the minutes of the November 3, 2004 meeting as presented. **MOTION CARRIED BY THOSE PRESENT (5 to 0).**

5. CONSENT AGENDA ITEMS

   CHAIRMAN RYAN stated that Commission had met prior in a Study Session to review several of the items on the night's agenda. He read the Consent items as being Item A-DVR04-0039 Chandler Baptist Church; Item C – UP04-0038 Utility Vault; and Item D – UP04-0043 Remuda Ranch. He asked if anyone in the audience wanted to have any of the Consent items pulled. There was no response from the audience.

   JEFF KURTZ, CURRENT PLANNING MANAGER, stated that there were no additional stipulations to the items; however, Item A – Chandler Baptist Church was continued to the first meeting of December 2005. Item C – Utility Vault was continued to the January 19, 2005 Planning and Zoning Commission meeting. Chairman Ryan verified that Remuda Ranch was as recommended by Staff to which Mr. Kurtz confirmed that was correct. Chairman Ryan stated that Commissioner Heumann wanted the applicant to come forward to clarify Item E – UP04-0054 Pesto's Pizza.

A. DVR04-0039 CHANDLER BAPTIST CHURCH

CONTINUED TO DECEMBER 7, 2005, a request for action on the existing PAD zoning to extend the conditional schedule for development, remove, or determine compliance with the two year schedule for development or to cause the property to revert to the former AG-1 (Agricultural) zoning classification. The existing PAD (Planned Area Development) zoning allows the construction of a church on an approximately 4.5 acre property located at 222 S. McQueen Road (west side of McQueen Road, approximately 300 feet north of Frye Road).

C. UP04-0038 UTILITY VAULT

CONTINUED TO JANUARY 19, 2005, a request for Use Permit extension for existing outdoor storage of concrete vaults. The subject property is located at 411 E. Frye Road.

D. UP04-0043 REMUDA RANCH

APPROVED, a request for Use Permit extension to allow for a temporary gravel parking lot to be used by staff members of Remuda Ranch. The subject property is located at 111 S. Hearthstone Way.

1. The Use Permit shall remain in effect for two (2) years from the effective date of City Council approval. Continuation of the use of such gravel parking lot beyond the expiration date shall require re-application to and approval by the City of Chandler.
2. The temporary parking lot shall be surfaced with gravel or other suitable material and type of dust palliative. The subject parking lot shall be maintained at all times in a dust-free and weed-free manner.
3. The entrance/exit to the temporary gravel parking lot shall be restricted to Los Feliz Drive.
4. Signage to restrict and/or designate appropriate parking areas and pedestrian pathways shall be installed subject to Staff approval.

MOTION BY COMMISSIONER IRBY, SECONDED BY COMMISSIONER GULSVIG, to approve the Consent Agenda. **MOTION WAS APPROVED BY THOSE PRESENT (5-0).**

5. ACTION ITEMS

B. DVR04-0004/PPT04-0004 WHISPERING HEIGHTS

Request initial City of Chandler zoning of Planned Area Development (PAD) along with Preliminary Development Plan (PDP) approval and Preliminary Plat approval for a 144- lot single-family residential subdivision on approximately 70 acres. The lots are at least 8,700 square feet in size. The property is located at the southeast corner of Lindsay Road and Chandler Heights Road.

1. Right-of-way dedications to achieve full half widths for Chandler Heights Road and Lindsay Road, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.
2. Undergrounding, if applicable, of all overhead electric (under 69KV), communications and television lines and any open irrigation ditches or canals located on the site or within adjacent right-of-ways and/or easements in accordance with City adopted design and engineering standards. Any 69kv or larger electric lines that must stay overhead shall be located in accordance with the City's adopted design and engineering standards. The aboveground utility poles, boxes, cabinets, or similar

appurtenances shall be located outside of the ultimate right-of-way and within a specific utility easement.

3. Completion of the construction, where applicable, of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details, and design manuals.
4. Future median openings shall be located and designed in compliance with City adopted design standards (Technical Design Manual # 4).
5. The developer shall be required to install landscaping in the arterial street median(s) adjoining this project. In the event that the landscaping already exists within such median(s), the developer shall be required to upgrade such landscaping to meet current City standards.
6. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development, or take legislative action to cause the property to revert to its former zoning classification.
7. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Whispering Heights" kept on file in the City of Chandler Current Planning Division, in file no. DVR04-0005, except as modified by condition herein.
8. The covenants, conditions and restrictions (CC & R's) to be filed and recorded with the subdivision shall mandate the installation of front yard landscaping within 180 days from the date of occupancy with the homeowners' association responsible for monitoring and enforcement of this requirement.
9. The landscaping in all open spaces and rights-of-way as well as all perimeter fences and view walls, shall be maintained by the adjacent property owner or homeowners' association.
10. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls.
11. The homes shall have all copper plumbing lines for those lines under pressure.
12. The source of water that shall be used on the open space, common areas, and landscape tracts shall be reclaimed water (effluent). If reclaimed water is not available at the time of construction, and the total landscapable area is 10 acres in size or greater, these areas will be irrigated and supplied with water, other than surface water from any irrigation district, by the owner of the development through sources consistent with the laws of the State if Arizona and the rules and regulations of the Arizona Department of Water Resources. If the total landscapable area is less than 10 acres in size, the open space common areas, and landscape tracts may be irrigated and supplied with water by or through the use of potable water provided by the City of Chandler or any other source that will not otherwise interfere with, impede, diminish, reduce, limit or otherwise adversely affect the City of Chandler's municipal water service area nor shall such provision of water cause a credit or charge to be made against the City of Chandler's gallons per capita per day (GPCD) allotment or allocation. However, when the City of Chandler has effluent of sufficient quantity and quality, which meets the requirements of the Arizona Department of Environmental Quality for the purposes, intended available to the property to support. In the event the owner sells or otherwise transfers the development to another person or entity; the owner will also sell or transfer to the buyer of the development, at the buyer's option, the water rights and permits then

applicable to the development. The limitation that the water for the development is to be owner-provided and the restriction provided for in the preceding sentence shall be stated on the final plat governing the development, so as to provide notice to any future owners. The Public Report, Purchase Contracts, and Final Plats shall include a disclosure statement outlining that the development shall use treated effluent to maintain open space, common areas, and landscape tracts.

13. The "Public Subdivision Report", "Purchase Contracts", and CC&R's shall include a disclosure statement outlining that the site is adjacent to agricultural properties that have horse and animal privileges and shall state that such uses are legal and should be expected to continue indefinitely.
14. No more than two adjacent homes along arterial streets shall have identical roof ridgelines.
15. Minimum setbacks shall be 18' front yard, 20' rear yard (30' for two-story homes), and a minimum of 5' and 10' side yards for each lot.
16. Homebuilder will advise all prospective homebuyers of the information on future City facilities contained in the City Facilities map found at www.chandleraz.gov/infomap, or available from the City's Communication and Public Affairs Department. The homebuilder shall post a copy of the City Facilities map in the sales office showing the location of future and existing City facilities.
17. Each of the two tot lots shall be a minimum of 20 total play stations.
18. The same front elevation shall not be built on adjacent or opposite lots.
19. Staggered front and rear building setbacks for adjacent house locations shall occur throughout the entire subdivision.
20. When two-story homes are built on adjacent lots, a 20-foot separation of the two-story elements shall be provided between homes.
21. The setbacks for all lots over 30,000 square feet shall be as follows; front yard 25 feet, each side yard 15 feet, rear yard 40 feet.
22. For lots adjacent to an arterial street, two-story homes are limited to every third lot.
23. Any custom plans not indicated in the Development Booklet shall meet or exceed the residential diversity standards and quality representations found in the Development Booklet.
24. The perimeter wall on the subdivision's south and east sides shall be a 6-foot high split face CMU wall incorporating elements and colors of the perimeter theme wall shown in the Development Booklet and not be a grey CMU wall.
25. The 30-foot strip along the property's south side, and the southern property line of the lots immediately to the north of it, shall not exceed the average existing grade of the properties to the south.
26. All homes along the property's south and east sides shall be single story.
27. The applicant shall work with Staff to introduce additional Southeast Chandler elements, reflecting rural character features, to the design of the open spaces and tot lots.
28. The theme tree along the community trail shall be a citrus tree variety.
29. The theme tree placed in groves within the landscaped streetscape shall be an orchard tree such as Pistachio or Pecan.

Staff recommends approval of the Preliminary Plat subject to:

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.

THOMAS RITZ, PLANNER stated that this request is for initial City zoning Planned Area Development along with Preliminary Development Plan approval for subdivision layout and housing product, and Preliminary Plat approval for 144-lot single-family residential subdivision. Staff recommends approval of the items subject to conditions.

Mr. Ritz said that changes were made since Commission had last seen this case. Among them were:

- Increased open space along the main project entry corridor from Chandler Heights Road.
- Community trail corridor within the central part of the subdivision with a single theme tree. Staff is recommending that Evergreen Elm be replaced with a citrus tree variety along the community trail to reflect the Southeast Chandler character.
- Along Chandler Heights Road and Lindsay Road the subdivision includes Southeast Chandler elements including a landscaped streetscape featuring groves of trees. Staff is recommending that an orchard tree such as Pistachio or Pecan be planted.
- Decorative split rail fencing and a rural character monument sign have been added along Chandler Heights Road and Lindsay Road.
- The entrance drives now feature specialty pavers.
- Entry monument sign with flagstone wall, steel trellis, and cascading waterfall feature.
- The subdivision layout has been modified with numerous additional cul-de-sacs with landscape islands.
- A new buffer zone of 12,000 square foot lots was added to the subdivision's southern part.
- All side yards in the subdivision will be at least 10 feet wide for a total of 20 feet, with some new wider lots having 25-foot total side yard setbacks and opportunities for 30-foot setback between houses.

Mr. Ritz further pointed out that 14 lots within the subdivision were at least 35,000 sq. ft; 41 lots over 12,000 sq. ft; and 40 lots less than 10,000 sq. ft, which is approximately 28% of all lots. He further noted that this project lies within Southeast Chandler, and the Southeast Chandler Area Plan notes that subdivisions such as this one could be considered for Traditional Suburban densities for stand-alone subdivisions. There will be a 20-foot separation between two-story homes. There were neighborhood meetings. He noted that the applicant had taken into consideration the neighbors opposition to opening the open space to the neighborhood to the south. Additional neighborhood dialogue resulted in Staff receiving a petition to opposition, which included three additional neighbors opposed to the project.

In response to a question from Commissioner Heumann with regard to private property to the south, Mr. Ritz explained that in the past proposal to Commission, there had been a large open space. With the revision, the open space was focused along the entry drive and was continuing throughout the entire middle of the subdivision. During the neighborhood meeting, the neighbors expressed that they did not want the open space extending down to their property boundaries. Mr. Ritz pointed out that the applicant, in response to the request, had redesigned two lots and made them more pie-shaped.

JASON MORRIS, WITHEY ANDERSON & MORRIS, stated that he felt Mr. Ritz had done a very good job in capturing the changes that had been made. He stated that this case came out of an original County zoning case in 2000 and had been approved with the same density with a layout that was not as favorable as the current layout. The case pre-dated

development of any of the neighborhood homes on the eastern side; however, development did occur to the south. He further explained that the property to the east had been split by the County into smaller parcels and developed into the residential neighborhood.

He went on to say that when the property came into the City of Chandler, the first thing the property owner and the proposed developer looked at were Chandler's General Plan and the Southeast Chandler Area Plan and used them as a road map as to what would be required on the site. They needed to know where the bar needed to be set, what needed to be done in terms of design of both the subdivision and the homes, and consider all of that before moving forward.

He said the neighbors' concerns were densities, two-story homes, lot size, subdivision design, housing product, and the buffer. Mr. Morris demonstrated through the use of exhibits, the progression of changes that had occurred (such as different street configurations, changes in number of lots and lot sizes) over time as a result of the several neighborhood meetings and feedback from the neighbors. He said that the most recent concern with the neighbors was the open space showing to the south property line. The neighbors felt that private property is better than open space and a common area. Their fear was that children would jump the fence onto the small street on the other side of the fence. Mr. Morris said they had addressed that concern by incorporating larger lots to ensure there was private property on the other side of the fence.

Mr. Morris stated that the density had been lowered on the latest plan. He said that, despite the fact that there were 1- and 2-story homes adjacent to this development, they would abide by the single story restriction. They have incorporated cul-de-sacs; they are using a different landscape theme and theme walls. He said they were using a knee wall that incorporated some metal above the knee wall. The 30-ft. buffer is south of the lot line that would be created by this case. They have agreed with some of the neighbors that the property would be quitclaimed to the neighbors to the south and they would maintain that property. The 12,000 ft. lots in the lower third of the property are intended as an additional buffer. In addition, there are additional staggers on the 12,000 sq. ft. lots so that it opens up the streetscape, the setback distance between the homes had been increased to 20- to 30-foot between the paired homes, or paired setbacks. There are additional setbacks concerning the elevations and the 2-story elements. There's a new entry terminating into the open space.

Mr. Morris went on to say that all of these things, while improving the plan as a whole, add to the Southeast Chandler Area Plan. He said that they had used every tool in order to address the concerns that had been raised by the neighbors. He felt that the new plan is a superior plan and goes beyond what is required by the City of Chandler.

In response to a question raised by Commissioner Irby with regard to the planter at the end of a cul-de-sac, Mr. Morris stated that the planters had been submitted to Staff and met the standards. Commissioner Irby asked Mr. Morris to explain the dedication of the south property line and how it was going to work. Mr. Morris explained that in order to offer an additional buffer to the neighborhood, the lots were taken out to the true property line. The land would be quit claimed to the property owners to the south and that the property owners would maintain that land. He said that there is actually a roadway and the neighbor's homes actually front that roadway, so this would give them additional roadway, which they would

maintain. He said, though, that it was not to be used as a roadway, but instead would be landscaped and maintained by the property owners.

COMMISSIONER HEUMANN questioned the maintenance of the wall on the backside. Mr. Morris said that as a result of the last neighborhood meeting, it was agreed that the developer would create a design theme wall. In response to a question with regard to the installation of the landscape strip, Mr. Morris stated that the strip would be quit claimed prior to development and the responsibility of whoever owns the land.

CHAIRMAN RYAN asked if the subject roadway was a dedicated roadway from the City or County. Mr. Morris responded that it was not. Chairman Ryan said it was his understanding that the property owner's lot line actually went right up to the south property line of the development. Mr. Morris responded that that was correct and they were actually giving them additional lot.

COMMISSIONER IRBY stated that he was concerned that there would be squabbling over who would be paying for the landscape strip. Chairman Ryan explained that the property owner's property line went up to the south property line of the development. Mr. Morris said that the area that is being used as the roadway through a common easement is actually someone's lot on the south side of the development's south property line. He went on to say that by quitclaiming this area it would actually be enhancing someone's lot to the immediate south. They would have a larger lot and it would be their responsibility.

In response to a question from **COMMISSIONER GULSVIG**, Mr. Morris stated the property to the south is in the County, and the area that is being quit claimed has been annexed into the City.

COMMISSIONER HEUMANN commented that Stipulation No. 15 contradicts the staff report with regard to the minimum setbacks. Mr. Kurtz thanked Commissioner Heumann for pointing that out and stated that they would re-work that based upon how the new lot layout identifies with the setbacks.

CHAIRMAN RYAN commented that according to Stipulation No. 12 there would be effluent to this subdivision for the open space, and he did not think it was available in this area. Mr. Morris confirmed that effluent was available. Mr. Morris went on to say that as a result of all the changes on the site plan, that they now have approximately 20% of open space in this site.

CHAIRMAN RYAN asked if anyone in the audience wished to speak on the case.

BONNIE PAGE, 14635 E. Via De Palmas, stated that she was one of the south property owners. She stated that her family owned 10 acres as part of south property. She said they did not have a problem with the Brown family coming in, but wanted to see some of the housing eliminated (10 houses.) She commented that the lots are still at 9,000 sq. ft., and felt if the lots could go to 12,000 sq. ft. lots, then there would be fewer homes, which would make a big difference. Ms. Page said that the homes are not consistent with the neighborhood, as the neighborhood has acre lots. She commented that the builder is doing something that is more unique, but wanted to see fewer homes.

AMY SHUMWAY, 24024 S. 148th Street, stated that they felt 10 less houses would make a difference, but the only change that has been made has been 3 less houses. She said that 9,000 sq. ft. lots were too small in size. She went on to say that she appreciated all the changes that have been made so far – the cul-de-sacs, the better block wall, and felt that Brown Homes was working with them. The biggest concern was the tiny lots and the shear number of homes. She said they realized that there wasn't going to be acre lots, but if they could get more space between the homes they would be on board with it.

CYNTHIA MORISCH, 14737 E. Nolan stated that she was one of the newer homeowners in the neighborhood to the east that had purchased in the last two years. She stated that when they moved in that the subject property was going to be developed; however, they did not know they would be developed with as small as 9,000 sq. ft. lots. She said neighbors told them that it had been originally zoned with one-acre lots and that was their understanding until they received information through the mail to the contrary. She commented that they had been to the meetings and said that the developers were making changes, mostly related to the open space. However, the number of homes had not been cut back, just moved around several times. She commented that she had received a notice from the Town of Gilbert showing that on Chandler Heights east of Val Vista, the General Plan shows 35,000 sq. ft. or larger lots. She said that all around their neighborhood are large parcels. Ms. Morisch commented that Brown Family has not built one-acre parcels, but builds lower end homes. She said they are changing the plans to accommodate the area, but is keeping the same stuff in the middle and perimetering it with something they've never done before. She went on to say 12,000 sq. ft. was not what she wanted to see. Instead, she wanted to see something larger than that. She said she felt they were not the right people for this project.

COMMISSIONER HEUMANN asked Staff for the number of lots at the present time on this project. **Mr. Ritz** stated that the previous plan showed 147 lots; this plan showed 144 lots. He stated that the number had been moving, as the plan has been redrawn. Commissioner Heumann asked what size of homes would be built on the 35,000 sq. ft. lots. Mr. Morris stated that in terms of square footage the range would be from 2,600 to just over 4,000 square feet homes without basements. In response to questions raised by Commissioner Heumann, Mr. Morris stated the 12,000 sq. ft. lots lie just north of the perimeter larger lots. He said that the lot count by design matches the lot count of the properties adjacent to them, lot for lot. He said what they have done is truly a buffer. He again stated that they agreed to keep the perimeter lots single-story, although there were two-story homes adjacent. He said the average lot size is over 12,700 square feet overall. Commissioner Heumann questioned why there was not the same buffering on the development's east side as was on the south. Mr. Morris stated that the second tier of 12,000 square foot lots was added on the south because those homes to the south predate even the County zoning so it was the expectation of the property owners' that they would be treated with larger lots wherever possible. He added that they had been very active in the initial County zoning case, and have been very vocal since. In contrast the neighborhood on the eastern side, (when they built their homes), were building next to an existing zoning case, which showed a much smaller lot. Mr. Morris also noted that when the 10-acre property was sold, knowing that it was going to be split to create the lots where the people to the east now live, there was notification because the same owner had an 80-acre parcel and there already was a design plan, knowing what would be approved, so there was they placed a notification on the chain of title that indicated that anyone purchasing one of the lots created out of the 10-lot parcel would not oppose a subsequent zoning case as

long as it was a minimum 75' wide by 125' lot created on the parcel. He said that every purchaser who lives on the eastern boundary saw the notification in the chain of title. Mr. Morris stated that he wasn't sure why it was put there and, from a legal standpoint, no one could be deprived from petitioning his government. He said that at least there was notice that didn't exist to the people to the south. He also noted that the homes on the south face the developer and the homes on the east do not; therefore, there is a bigger impact to the homes on the south, which was why they felt it was appropriate to add the tier of 12,000 sq. ft. lots. When asked about the existing sizes of lots and homes south of the development, Mr. Morris stated that there were a number of varying sizes in homes along with various outbuildings. In response to a question posed by Commissioner Heumann as to the size of the existing homes on the south, **Ms. Bonnie Page** stated that the lot sizes are equal, but with different size homes. She stated that there were two homes approximately 4,500 square feet in size; another was approximately 3,400 sq. ft., one that is 3,000 sq. ft. in size, and one doublewide mobile home.

MR. MORRIS stated that there were two or three opportunities for everyone to come together on a plan. He said that the first plan started out with 151 homes and the homes had declined since that time. Mr. Morris said reducing the number of lots would not be something the developer would support. He asked Commission to support the plan.

CHAIRMAN RYAN asked how many lots had been approved in the County zoning case. Mr. Morris stated there were 140 lots approved under that zoning.

In response to a question from Vice Chairman Flanders regarding amount of open space in the first submittal, Mr. Morris stated there was just under 17% of open space. Vice Chairman Flanders commented that he liked the additional buffering with the 12,000 sq. ft. lots. He requested that an additional 5 ft. of setback be added to the 12,000 sq. ft. lots in order to open up the street. Mr. Morris said that would make sense. Vice Chairman Flanders stated that it provides additional views down the cul-de-sacs. He directed Staff to look at that as an additional stipulation.

COMMISSIONER IRBY stated that he agreed with Vice Chairman Flanders and that the latest plan with the cul-de-sac concept adds more character, especially to the neighbors to the south. He said that somewhere down the line there has to be a compromise of going from acre lots to something less and felt the plan achieved that due to how the open space is organized. He said it would have a nice presence, but wanted to make sure that there was a stipulation that the south wall would be a decorative wall. He felt that overall it was a very nice compromise.

COMMISSIONER HEUMANN commented that he liked the idea of the view corridors and adjusting the setbacks to push back the front yards opens up the corridors even more. He said that there would be a better to eliminate the small plan on the larger 35,000 sq. ft. lots, and keep the range of home sizes between 3,200 to 4,000 sq. ft. homes. He complimented the applicant and said they had done a decent job and that it was a better plan than what the County proposed.

CYNTHIA MORISCH stated that from the beginning the issue was the lot size. In order to minimalize the changes in the amount of homes, the builder made a lot of other changes. She said that lot size was something the builder had not dealt with, and in the end had only

removed 3 homes from the initial plan. She went on to say that the person who had sold the property could not speak for the owners of the property and that there was no legal basis. She said that they have rights as property owners just as everyone did, and the person who sold the property could not speak for what the new owners would have to say about it. Ms. Morisch said she could not figure out why all the focus was on the south lots. She said it was great for the Shumways'; property was being deeded to them, and the larger lots are going by them, plus the one-story restriction. However, the people on the east aren't getting the same treatment just because they were newer to the neighborhood and that they were not receiving the same treatment. She stated that they were aware the property was going to be sold, as did the Shumways'. She went on to say that the Shumways' had gone to one meeting in 2000 with the County and that one person had spoken for them. Yet they were getting the advantage of the 12,000 sq. ft. lots and the property deeded to them. She felt they were not getting fair treatment and wondered by there was so much focus on the south.

CHAIRMAN RYAN explained that the homes and front yards on the properties to the south are oriented towards the subdivision and that there is a concern with keeping the roadway easement in tact. He said there is a bigger concern to provide the owners to the south that relief. When asked if she opposed the County zoning, Ms. Morisch stated that they did not live there at that time as that was four years prior. She said they knew that the property had been sold to a developer, but no one knew what it would end up being. Chairman Ryan stated that the Maricopa County approved plan with 140 lots was in place at the time she had purchased her property. Mr. Morisch said that neighbors had told them that there was opposition to that plan and that they had been told initially that it was going to be one-acre parcels. She said they were confused until they went to the first meeting and realized what was going on. Ms. Morisch said that the 12,000 sq. ft. lots are great, but doesn't like the fact that everything is focusing toward the south.

To the Shumways, Chairman Ryan asked if they were okay with the quit claim. Ms. Page said they were wondering what the legal aspect of this would be. Chairman Ryan stated they would not be able to answer that. Ms. Page stated that her brother-in-law had approved through the County the 140 homes on the previous plan. Now there were 144 homes and that was not acceptable.

COMMISSIONER HEUMANN questioned the status of the road, if it was dirt or gravel. Mr. Ritz stated it was a dirt road and went on to explain how the property owners use the road. Mr. Kurtz stated that it's a shared driveway.

MOTION BY COMMISSIONER HEUMANN, seconded by VICE CHAIRMAN FLANDERS TO APPROVE <u>DVR04-0004/PPT04-0004 WHISPERING HEIGHTS</u> SUBJECT TO CONDITIONS read by Commissioner Heumann:

15. Minimum setbacks shall be 23 feet on all 12,000 sq. ft. lots and 18 feet on the remaining lots, and the minimum setbacks will be 10 and 10 on the side yards for each lot.
30. The south property wall will be a decorative wall.
31. The *(inaudible)* public report that there is a dirt driveway to the south that is owned by the property owners in the County land.

MOTION CARRIED BY THOSE PRESENT (5-0).

E. <u>UP04-0054 PESTO'S PIZZA</u>

Request Use Permit approval to sell liquor (Series 7 Beer and Wine Bar License) at an existing restaurant at 1960 West Ray Road, Suite 3.

1. The Use Permit is for a Series 7 license only, and any change in type of license shall require reapplication and new Use Permit approval.
2. Expansion beyond the approved Floor Plan shall void the Use Permit and require new Use Permit application and approval.
3. The Use Permit is non-transferable to any other store location.

JEFF KURTZ, CURRENT PLANNING MANAGER, stated that this is a Use Permit request for a Series 7 beer and wine bar license by Pesto's Pizza, located at 1960 West Ray Road, Suite 3. He went on to state that the purpose of the request had to do with the applicant's desire to expand the services that they offer. A Series 7 license allows for alcohol off-site catering and for the sale of beer and wine in packaged containers to be sold on premises for consumption off premises. Mr. Kurtz went on to explain that Pesto's recently expanded into the adjoining suite with a Series 12 liquor license. He also stated that there were no land use concerns with Staff and recommended approval of the request. Mr. Kurtz commented that during Study Session it was brought to his attention that Commission wanted the opportunity to learn more about the operation from the owner. He stated that the owner was present.

FRANK TAURISANO, OWNER OF PESTO'S, 1960 W. RAY ROAD, on the northeast corner of Ray and Dobson, stated that they had been there for 10 years and had always had a Series 12 liquor license. He stated that they recently just done the expansion and the usage was as stated. He said that they do quite a bit of catering and the reason for the extension on the bar is to rebuild the wine bar. Part of the reason for having wine tastings and seminars is to get people to try wine. He said that frequently after tasting a wine, the customer wants to buy that wine. Mr. Taurisano commented that they are not authorized to sell the wine at this location. He said they do not have an extensive amount of shelf space so they would not be competing with any Circle Ks. It was basically for wine tastings and to enable them to sell to those people that come to the tastings.

COMMISSIONER HEUMANN commented that he had asked this item be pulled, as he wanted further clarification on the purpose of the request. He asked if this was strictly for wine tasting events, if it would be for beer as well. Mr. Taurisano said that the license covered both beer and wine; however, it was mostly for the wine. He went on to explain to Commission that when a vintner came to his establishment for a lecture and wine tasting seminar, that customers frequently have the desire to buy the wines for home consumption. He said that they want to capitalize on the sale of the wine instead of sending the customer to AJ's or another store. Commissioner Heumann commented that his concern had been that Pesto's would sell six packs for consumption to go; however, it sounded as though this was more for the classes and the wine tasting. Mr. Taurisano said that they could not compete with any supermarket for the sale of beer and confirmed that this was more for the wine aspect. He went on to say that they had just signed another 10-year lease with an option for another 10-year, which was why they went ahead with the expansion and because they like the location and felt they provided for that portion of town.

MOTION BY VICE CHAIRMAN FLANDERS, SECONDED BY COMMISSIONER HEUMANN, TO APPROVE <u>UP04-0054 PESTO'S PIZZA</u>, SUBJECT TO CONDITIONS

AS RECOMMENDED BY STAFF. MOTION WAS APPROVED BY THOSE PRESENT (5-0).

F. <u>ZCA04-0001 COMPATIBILITY POLICY FOR LATE HOUR BUSINESSES</u>
Request adoption of City policy setting forth various compatibility considerations to be made at the time of new zoning and Use Permit approvals, relative to late hour businesses possibly being located within 300 ft. of existing residential zoning designations.

HANK PLUSTER, LONG RANGE PLANNING MANAGER, addressed the Commission regarding this agenda item. He stated that at the August 18th regular meeting, the Planning Commission voted (4 to 1) to recommend denial of a Zoning Code amendment previously drafted by staff, which would have made late hour businesses subject to specific approval by Council. He added that Council continued that item from the August 26th hearing to October 28th for the purpose of allowing staff adequate time to conduct a meeting to receive additional input from the affected stakeholder interests. He reported that a meeting was held on September 22nd and subsequently on November 4th with representatives of the groups as well as residents who had expressed interest during the hearing process. He noted that a lot of the discussion was centered upon developing a policy approach (versus an ordinance) because policies can be more case specific and provide a set of considerations to look at without suggesting automatic solutions for the automatic standards. He stated that they achieved a good consensus among the stakeholders to proceed with a policy approach and noted that the City's PAD process is actually a case-by-case tailor made type of zoning.

MR. PLUSTER stated that staff also wanted to avoid a "punch list approach," which is a little bit of a danger sometimes with an ordinance where the applicant might feel that he/she has met all of the standards and can't understand why they are not be allowed late hour uses. He commented that the point of a policy is to get the neighbors involved, notify them that late hours are being considered, and hammer out a solution that takes into account the specifics of that situation and especially the input from the neighbors who will be most affected.

MR. PLUSTER provided a brief overview of the proposed policy and noted that staff has defined late hour businesses as *"Any retail store, restaurant, bar, convenience store, gas station, commercial service, entertainment, or drive-thru that use that customarily opens its doors to the public, either in whole or in part, one (1) or more hours between midnight ant 6:00 a.m., one (1) or more days each week. This category shall not include hospitals and medical care facilities, hotels, self-storage uses, offices, industrial uses, transportation services, day care, group homes, construction activities, or utility companies,* (Mr. Pluster noted that the addition states:) *"nor shall this category include any business licensed to sell or serve liquor under the provisions and requirements of the Arizona Revised Statutes Title IV, that close their doors to the public at 2:00 a.m. and no longer serve their patrons in any manner after 2:30 a.m., and is otherwise in conformance with all requirements of the Chandler City Code."*

MR. PLUSTER informed the members of the Commission that the added portion of the definition is the result of stakeholder input and explained that they were concerned that the policy remain consistent with State Statutes, which were recently amended to allow liquor business licensed to sell liquor for on-site or off-site consumption until 2 a.m. He added that if a business came forward and wanted to take advantage of the State Statute and continue to serve liquor until 2 a.m., it can certainly do so and would not be impacted by this policy. He further stated that the proposed policy goes on to talk about applicability and commented that staff has made it clear

that the policy would apply only to sites that are within 300-feet (measured on a straight line from the boundary of the nearest parcel zoned for residential use to the nearest exterior building wall of the commercial use, where the commercial building is not separated or buffered by an arterial street, freeway, railroad or other nonresidential building). He added that the policy states that it affects only new PAD zoning or amending existing PAD zoning or new Use Permit approval. He emphasized that the policy would not affect any business already in existence. He noted that the policy states that *"This policy does not apply to any existing late hour business already operating prior to the effective date of this policy, nor does it apply to any zoning approval or Use Permit approval as may have been granted for commercial use(s) prior to the effective date of this policy."*

MR. PLUSTER advised that an existing business that stays open until midnight and wants to extend their hours to 3 or 4 in the morning or even remain open 24 hours, can do that, the policy would not affect that at all. He clarified that if the business received current zoning approval during recent months or one or two years ago, but has not yet built, the policy would not affect them because they already have zoning approval based upon the conditions that were applied at that time. He added that the policy would not affect anything within or immediately adjoining the CCD (City Center District) and noted that there is an entire separate set of considerations developed for the downtown in an effort to achieve a different type of vibrancy in that particular area.

MR. PLUSTER further stated that the policy calls for an applicant requesting zoning or Use Permit approval for any commercial use(s) must declare, at the time of filing such application, the intent to allow or not allow late hour business occupancies. He noted that if the answer is yes, that the development does in fact intend to have late hour occupancies, that will be so noted one way or the other and will become part of the notice to adjoining property residents so they will be made aware of this fact. He added that if the applicant states that they don't want to have any late hour business occupancies, quite likely the zoning approval or Use Permit would stipulate it just that way and in order to change that, they would agree to go through a public hearing process and notification process and if a subsequent owner or tenant wanted to have something of a late hour nature, they would have to come back through the process.

MR. PLUSTER noted that the policy also takes into consideration accountability considerations and said that the intent is that the developer and affected neighbors work through a process that achieves mutually acceptable design solutions or other agreements in the interest of land use compatibility, in direct response to specific issues and/or concerns. He added that those considerations include noise, traffic, lighting, odors, litter, site maintenance and security issues. He said that those types of things are currently looked at but the policy will provide a constant reminder of the effects of the different factors and different effects that occur depending on uses and specific geometrics of the immediately adjoining residences.

MR. PLUSTER added that in an effort to avoid the "punch list approach" associated with "automatic standards for approval," the stipulations and resolution of issues or conditions that have little to do with design, the "hammer out process" involving neighbors, the developer and ultimately the Planning Commission and Council, is in place to provide an opportunity for everyone to attempt to identify a solution that best fits the situation. He noted that the issue has received a significant amount of input from stakeholders as directed by the Mayor and Council and said the process has been very productive. He referred to e-mails contained in the member's packets from the Arizona Licensed Beverage Association as well as the Arizona Food Marketing

Alliance in support of the policy. He ended his presentation by stating that staff recommends approval.

COMMISSIONER IRBY stated that his likes the current proposal better than the previous one but has a few questions. He said if a shopping center for example comes in for a PAD and the developer does not know whom his tenants will be, would he apply for all the tenants to eventually be after hour possibilities. **MR. PLUSTER** responded that the applicant would have the option to make a choice and said that could be the case quite often. He added that the developer would have to make a decision regarding the fact that perhaps they may want at some point to have late hours and then the policy would apply. He explained that staff will be charged with looking at these types of externalities and emphasized that notice would be given to the adjoining property owners that the applicant is entertaining the possibility, perhaps next year or five years down the road, that there could be some late hour occupancies. He noted that the applicant would make a statement as to whether they know or don't know at the time who their occupants will be. He added that if they say no, staff does not see that as a feasible occupant and then the zoning quite likely would be stipulated (this is being represented as no late hour occupancies and any change to that would trigger an amendment to that zoning stipulation).

COMMISSIONER IRBY commented that the developer would be foolish not to do a "blanket possibility for late hour businesses" for all tenants. He noted that this is more of a policy than a Use Permit and so time stipulations are not a concern.

MR. PLUSTER said that what the policy will do is provide more formal notice to adjoining residents/businesses.

In response to a question from **COMMISSIONER IRBY** regarding a developer who does not ask for after hour uses in the shopping center but then finds that he has a tenant who would like to have that, **MR. PLUSTER** responded that the original zoning would have stipulated "no late hour occupancies" at the time of approval and then either he or a subsequent tenant who wants a late hour business would have to come back and amend and go back through the notice process, the Commission, the Council and involved neighbors and they may be granted a certain threshold of occupancies or it might be that they (Commission & Council) are comfortable with any sort of late hour occupancy. He emphasized that a variety of options exist as to stipulations. He commented that if a developer wants to avoid going through another application/public process, then they would address the issue up front as the original zoning process.

COMMISSIONER IRBY said that it seems to him that there should be another mechanism in place to avoid going through a whole amended PAD process to allow a tenant to operate a late hour business. **MR. PLUSTER** responded that the applicant has the ability up front to request late hour uses and any number of choices can be made at the original application depending on the circumstances, the applicant's intentions, etc.

COMMISSIONER IRBY asked whether the Commission was being asked to vote on the draft policy and **MR. PLUSTER** responded that yes, they are being requested to vote on the proposed policy which would become effective if and when it is approved by the City Council.

In response to a question from **COMMISSIONER GULSVIG, MR. PLUSTER** advised that when an applicant requests permission to operate a late hour business, a copy of the adopted policy would be included in the Commission's packet and emphasized that it is a tool for

everyone involved. He added that situations would be decided on a case-by-case basis and is only triggered by a request for commercial zoning, for a commercial Use Permit, within 300 feet so the issue will not arise for every application. He reiterated that it is not an amendment to the Zoning Code, not a Use Permit per se and not special approval per se, it is a policy document that is part of the "thinking, action and solution" process at the time of new zonings and zoning amendments.

VICE CHAIRMAN FLANDERS commented that the policy is a lot easier to read through and asked what would happen in the case of a developer of a shopping center who receives approval for late-hour businesses although a tenant has not been identified. He added that the Use Permit might state that it is a bar or some type of restaurant and asked when they would get into the compatibility issues (noise, traffic, etc.) **MR. PLUSTER** responded that when it comes to liquor uses, they would have their own track because they are required to come through the Commission and City Council. He added that they still maintain their entire array of design considerations, stipulations, etc. The Vice Mayor asked whether that discussion would occur at the time of the initial zoning case or at the Use Permit phase of the process when there is a lot more knowns. **MR. PLUSTER** provided the example a shopping center with businesses that are going to have late hour businesses and said if they wanted to operate 24-hours a day, that could be part of the original design thinking that goes into the original commercial subdivision for a shopping center (service drives, bay doors, screened walls, etc.) can definitely be part of the consideration, which may avoid problems down the road.

VICE CHAIRMAN FLANDERS noted the 300-foot notification area and asked whether that would be increased to 600 feet because they are already looking at going to that distance. He asked whether the increased footage would apply to the proposed policy. **MR. PLUSTER** responded that the Vice Mayor made an excellent point and noted that the policy states when there is residential zoning within 300 feet the process is triggered. He added that the notice process they go through for a use permit will be expanded to 600 feet if the item is approved and would go into effect. He said that the trigger would remain at 300 feet (notice to residents stating that a commercial entity has requested to conduct late hour business) but emphasized that the people receiving that notice will be located as far out as 600 feet.

In response to a request for clarification, **MR. PLUSTER** referred to Page 2 of the policy and said he might have misstated the answer to Commissioner Irby's question. He noted that subsection a in the middle of the page under Required Declaration and Notice states that, *An application as may be approved for which late hour business occupancies* ***are not*** *requested shall be stipulated, "Late hour business occupancies as defined by policy shall be prohibited; any future request to allow a late hour business shall be subject to Use Permit approval by Council, upon recommendation by Planning Commission, in accordance with the considerations set forth in this policy."* He noted that it is not a zoning amendment per se, it is a Use Permit approval.

There were no citizens wishing to speak on this item.

COMMISSIONER HEUMANN posed a question relative to an applicant's PAD being approved for no late hour business and a restaurant opens up with a Series 12 liquor license that stipulates 11 p.m. will be their closing hour, as many restaurants do. He said if that were to change because of new ownership or otherwise and they now want to remain open until 2 a.m. would they be able to do that or would they have to come back and ask for a change in the Use Permit? **MR. PLUSTER** responded that such a situation would be independent of the policy

because the business would be able, in accordance with State law, to operate until 2 a.m. He added that the tentative answer to that would be that since the use permit was represented as closing at 11 p.m., the applicant would have to come back to address the use permit issue but emphasized the difficulties associated with regulating State law.

COMMISSIONER HEUMANN commented that one of his concerns regarding late night bars and restaurants is that owners of a currently operated respectable, family run bar or restaurant is open until 2 a.m. and the ownership changes to a disreputable business but they don't need to go back through the process, this type of situation could negatively impact residents and the community. **MR. PLUSTER** said that staff agrees that if they stay within the time parameters of State law, the City makes recommendations for liquor licenses (separate and distinct from liquor use permits) and if they remain within the parameters they do not place an extra burden per se on an applicant seeking a liquor license. He added that staff could look into extra notice being given by staff in situations such as the one mentioned by Commissioner Heumann and determine whether it would fit within the lines of State law.

COMMISSIONER HEUMANN commended staff for their hard work on this issue and asked that they pursue extending the notification process when ownership changes as far as late hour businesses.

MOTION BY COMMISSIONER HEUMANN, SECONDED BY COMMISSIONER IRBY, TO APPROVE ZCA04-0001 COMPATIBILITY POLICY FOR LATE HOUR BUINESSES. THE MOTION CARRIED UNANIMOUSLY.

6. DIRECTOR'S REPORT

None.

7. **CHAIRMAN'S ANNOUNCEMENT**

The next regular meeting is Wednesday, December 1, 2004 at 5:30 p.m. in the Council Chambers.

8. **ADJOURNMENT**

The meeting was adjourned at 7:18 p.m.

_____
Phil Ryan, Chairman

_____
Douglas A. Ballard, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, December 1, 2004, held in the City Council Chambers, 22 S. Delaware Street.

1. Vice Chairman Flanders called the meeting to order at 5:30 p.m.

2. Pledge of Allegiance lead by Commissioner Polvani.

3. The following Commissioners answered Roll Call:

   Vice Chairman Michael Flanders
   Commissioner Jeanette Polvani
   Commissioner Rick Heumann
   Commissioner Mark Irby
   Commissioner Brett Anderson
   Commissioner Dick Gulsvig

   Absent and Excused: Chairman Phil Ryan

   Also Present:
   Mr. Jeff Kurtz, Current Planning Manager
   Mr. Bob Weworski, Principal Planner
   Ms. Kim Clark, Planner
   Mr. Joshua Cook, Planner
   Ms. Ashley Lumpkin, Planner
   Ms. Jodie Novak, Planner II
   Mr. Kevin Mayo, Planner
   Mr. Thomas Ritz, Planner
   Mr. Glenn Brockman, Assistant City Attorney
   Ms. Linda Porter, Clerk

4. APPROVAL OF MINUTES

   MOVED BY COMMISSIONER IRBY, seconded by COMMISSIONER GULSVIG to approve the minutes of the November 17, 2004 meeting as presented. **MOTION CARRIED BY THOSE PRESENT (6 to 0).**

   VICE CHAIRMAN FLANDERS announced that Chairman Ryan was out due to heart surgery and wished him a speedy recovery.

5. CONSENT AGENDA ITEMS

   VICE CHAIRMAN FLANDERS stated that Commission and staff had met prior in a Study Session to review several of the items on the night's agenda. He read the Action items as being Item B – DVR04-0040 The Castle at Ashley Manor; Item D – DVR04-0056 Mercedes-Benz & Lexus of Chandler; Item E – PDP04-0016 Olive Tree Plaza; Item M – ZCA04-0002 Expanded Notification Requirements; and Item N – PDP04-0009 Bank One.

JEFF KURTZ, CURRENT PLANNING MANAGER, stated the following additional stipulations were added to the Consent items and would be acted on with one motion.

Item A – DVR04-0005 Tre'Vicino, revision to Stipulation No. 12:

"The applicant shall work with Staff through the Preliminary Development Planning process to ensure the site plan will provide adequate sound attenuation to buffer the future homes from the existing railway line through the use of mitigation measures such as, but not limited to, retention and/or street right-of-ways, as well as minimize the number of homes adjacent to the tracks."

Item C – DVR04-0051 Pollack Business Park North – Suites 8, 9, and 10:

4. *"All exterior building signs shall be individually mounted letters only, not mounted to a raceway."*

Item F – UP04-0048 Thai Rama

5. *"Any substantial change in the floor plan to include items such as, but not limited to, additional bar serving area or the addition of entertainment-related uses shall require reapplication and approval of the Use Permit."*
6. *"The Use Permit allows only beer and wine service."*

Item J – UP04-0047 Breaktimers Inc.

5. *"Any substantial change in the floor plan to include such items as, but not limited to, additional bar serving area or the addition of entertainment-related uses shall require reapplication and approval of the Use Permit."*
6. *"The Use Permit be granted for a period of one year, at which time reapplication shall be required."*

Item K – UP04-0057 Na Zdrowie Restaurant

7. *"Any substantial change in the floor plan to include such items as, but not limited to, additional bar serving area or the addition of entertainment-related uses shall require reapplication and approval of the Use Permit."*
8. *"The Use Permit shall remain in effect for one year from the effective date of Council approval. Continuation of the Use Permit beyond the expiration date shall require reapplication to and the approval by the City of Chandler."*
9. *"No live music or entertainment shall occur at this location."*

To the audience, **VICE CHAIRMAN FLANDERS** asked that if anyone wanted to pull any of the items from the Consent Agenda. There was no response. There were no additional items from the Planning Commission.

A. <u>DVR04-0005 TRE'VICINO</u>

APPROVED. Request rezoning from General Industrial District (I-2) and Regional Commercial District (C-3) to Planned Area Development (PAD), with conceptual Preliminary Development Plan (PDP) approval for a Low-Medium Density Residential Development on approximately 49.4 acres located south and east of the southeast corner of Knox Road and Arizona Avenue.

1. Right-of-way dedications to achieve full half widths for Arizona Avenue and Knox Road, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.

2. Undergrounding, if applicable, of all overhead electric (under 69KV), communications and television lines and any open irrigation ditches or canals located on the site or within adjacent right-of-ways and/or easements in accordance with City adopted design and engineering standards.
3. Future median openings shall be located and designed in compliance with City adopted design standards (Technical Design Manual #4).
4. Completion of the construction, where applicable, of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details, and design manuals. The developer shall be required to install landscaping in the arterial street median adjoining this project to meet current City standards. In the event that the landscaping already exists within such median(s), the developer shall be required to upgrade such landscaping to meet current City standards.
5. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development, or take legislative action to cause the property to revert to its former zoning classification.
6. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Tre Vicino" kept on file in the City of Chandler Current Planning Division, in file no. DVR04-0005, except as modified by condition herein.
7. The covenants, conditions and restrictions (CC & R's) to be filed and recorded with the subdivision shall mandate the installation of front yard landscaping within 180 days from the date of occupancy with the homeowners' association responsible for monitoring and enforcement of this requirement.
8. The landscaping in all open spaces and rights-of-way as well as all perimeter fences and view walls, shall be maintained by the adjacent property owner or homeowners' association.
9. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls, and by the Public Works Director for arterial street median landscaping.
10. The homes shall have all copper plumbing lines for those lines under pressure.
11. Homebuilder will advise all prospective homebuyers of the information on future City facilities contained in the City Facilities map found at www.chandleraz.gov/infomap, or available from the City's Communication and Public Affairs Department.
12. The applicant shall work with Staff through the Preliminary Development Plan process to insure the future homes will provide adequate sound attenuation to buffer the railway line.

C. <u>DVR04-0051 POLLACK BUSINESS PARK NORTH – SUITES 8, 9 & 10</u>

APPROVED. Request to rezone the existing Planned Industrial District / Planned Area Development (I-1/PAD) to I-1/PAD Amended to allow for motorcycle sales and repair within Suites 8, 9, and 10 of Building E at 3245 N. Arizona Avenue. This request is for 8,609 square feet of a 20,216 building within a 9-acre industrial park. The property is located at the Southeast corner of Arizona Avenue and Chilton.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Rezoning Request for Cycle-Moto, Inc.", kept on file in the City of Chandler

Planning Services Division, in File No. DVR04-0051, Pollack Business Park North, Suites 8,9,10, except as modified by condition herein.

2. All building signage shall be in conformance with the sign guidelines represented in the Development Booklet, as originally approved in DVR02-0029, Pollack Business Park North and the City of Chandler sign code.
3. No outdoor area is to be used for motorcycle or parts display, storage, or sale.

F. UP04-0048 THAI RAMA

APPROVED. Requests Use Permit approval to sell liquor (Series 12 Beer and Wine License) at an existing restaurant at 2040 West Chandler Boulevard.

1. The Use Permit is for a Series 12 license only, and any change in type of license shall require reapplication and new Use Permit approval.
2. Expansion beyond the approved Floor Plan shall void the Use Permit and require new Use Permit application and approval.
3. The Use Permit is non-transferable to any other store location.
4. There will be no outdoor dining.

G. UP04-0044 TOM LOMBARDO

APPROVED. Request Use Permit extension approval for an office within a Single-Family Residential 8.5 (SF-8.5) zoning district. The existing office is located at 456 West Chandler Boulevard.

1. Expansion or modification beyond the approved exhibits shall void the Use Permit and require new Use Permit application and approval.
2. The Use Permit is non-transferable to any other location.
3. Substantial conformance with the representations contained within the Applicant's Narrative.
4. Increases in on-site employment over that represented (4), or the expansion of the home to provide additional office space, shall require Use Permit amendment and approval by the City of Chandler.
5. Visual screening of on-site parking from adjacent property owners shall be maintained at all times. Failure to maintain such screening shall void the Use Permit.

H. UP04-0058 CVS/PHARMACY

APPROVED. Request Use Permit approval to sell beer and wine for off-premise consumption only (Series 10 License) at a new Pharmacy located at 3990 W. Ray Road, at the Northeast Corner of Ray Road and McClintock Road.

1. The Use Permit is for a Series 10 license only, and any change in type of license shall require reapplication and new Use Permit approval.
2. Expansion of the retail sales area beyond the approved Floor Plan shall void the Use Permit and require new Use Permit application and approval.
3. The Use Permit is non-transferable to any other store location.

I. UP04-0042 COUNTRY INSURANCE FINANCIAL SERVICES

APPROVED. Request Use Permit extension approval for an insurance and financial services office located within a residential neighborhood. The subject property is located at 584 W. Chandler Boulevard.

1. That the Use Permit extension shall be granted for a period of five (5) years, at which time re-application shall be required.
2. Vehicular access to the alley is prohibited; alley gate shall remain closed and locked except during an emergency.
3. The number of employees occupying the residential conversion shall not exceed six.
4. Country Companies Insurance Agency shall be the sole tenant of the residential conversion; additional tenants shall void the Use Permit and require a new Use Permit application.
5. The Oleander hedge on the north side of the property shall be maintained in a healthy manner and existing form (height, width). Any portion of the hedge that ceases to thrive shall be replaced. Non-compliance with conditions herein or hedge removal on north property line shall require replacement with a six-foot block wall.

J. UP04-0047 BREAKTIMERS INC.

APPROVED. Request Use Permit approval to sell liquor (beer & wine) for off-premise consumption only (Series 10 License) at an existing retail store. The subject property is located at 545 N. Arizona Avenue.

1. The Use Permit is for a Series 10 license only, and any change in type of license shall require reapplication and new Use Permit approval.
2. The Use Permit is not transferable to any other store location.
3. Expansion beyond the approved Floor Plan shall void the Use Permit and require new Use Permit application and approval.
4. Changes to the hours of operation shall require new Use Permit application and approval.

K. UP04-0057 NA ZDROWIE RESTAURANT

APPROVED. Request Use Permit approval to sell liquor (Series 12 Restaurant License) at a restaurant at 2051 W. Warner Road, Suite 7.

1. The Use Permit is for a Series 12 license only, and any change in type of license shall require reapplication and new Use Permit approval.
2. Expansion beyond the approved Floor Plan shall void the Use Permit and require new Use Permit application and approval.
3. The Use Permit is non-transferable to any other store location.
4. Hours of operation are limited to Sunday through Thursday 9 a.m. to 12 a.m. and Friday and Saturday from 9 a.m. to 2 a.m.
5. Access to the suite's south exterior door at the kitchen shall be restricted to emergency egress or employee use only. This door is to remain closed during business hours to mitigate potential noise adjacent to residences.
6. Decibel levels of music shall be controlled so as not to present a nuisance to residential properties beyond the boundaries of the Citrus Plaza shopping center.

L. UP04-0050 COSTCO WHOLESALE
CONTINUED TO DECEMBER 15, 2004 PLANNING AND ZONING COMMISSION AGENDA. Request Use Permit approval to sell liquor (Series 9) in a new store to be located at the Southeast Corner of Chandler Village Drive South and Galleria Way.

O. PPT04-0028 CRESCENT FALLS AT FULTON RANCH
APPROVED. Request Preliminary Plat approval for a 90-unit townhome development on approximately 17.56 acres located east of the northeast corner of Alma School Road and Fulton Ranch Boulevard.

P. PPT04-0029 SERENITY SHORES AT FULTON RANCH
APPROVED. Request Preliminary Plat approval for a 184-unit condominium development on approximately 20.46-acres located east of the southeast corner of Alma School Road and Fulton Ranch Boulevard.

MOTION BY COMMISSIONER HEUMANN, SECONDED BY COMMISSIONER IRBY, to approve the Consent Agenda with the additional stipulations as read. **MOTION WAS APPROVED BY THOSE PRESENT (6-0).**

5. ACTION ITEMS

B. DVR04-0040 THE CASTLE AT ASHLEY MANOR
Request rezoning from Planned Area Development (PAD) to PAD Amended, with Preliminary Development Plan (PDP) approval for a meeting/reception facility on approximately 2.87 acres located north of the northwest corner of Price and Willis Roads.

Planner II JODIE NOVAK addressed the Commission regarding this agenda item. She explained that the parcel was zoned Planned Area Development (PAD) in 2003 along with the existing Ashley Manor facility rezoning, which is located to the south. She explained that the property is vacant and currently zoned to allow a corporate convention facility. In conjunction with the existing Ashley Manor facility, this site was planned for a 9,000-square foot, one-story building for additional convention and business-related activities and designed to accommodate up to 500 guests. She added that the zoning included approval for site layout only requiring the building design to come back as a separate PAD application.

MS. NOVAK noted that the zoning amendment request is to allow wedding receptions in addition to the business convention use already permitted. The request includes PDP for building design with the site layout and includes an 8,200 square foot facility to accommodate wedding related functions and also allow convention and business related activities. She said that initially the primary use of the facility is for weddings, while the business expands its convention and business related activities.

MS. NOVAK stated that staff has added a few zoning stipulations in response to concerns from the Commission, including the reduction of certain material on the building to 65%, incorporating additional brick, stone and glass on the vertical elements of the building and

requiring the roof material to be a flat natural slate roof tile. She noted that an additional stipulations states that all retention basins along Price Road shall be turf so that it is more integrated with the development along Price Road. She said that at the Study Session the Commission also expressed concerns regarding the architectural style of the building and stated that the applicant will respond to some of the concerns related to that. She advised that staff recommends approval of the request, based on the above stated stipulations in addition to the following:

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "The Castle at Ashley Manor", kept on file in the City of Chandler Planning Services Division, in File No. DVR04-0040, except as modified by condition herein.
2. Compliance with the original stipulations adopted by the City Council as Ordinance 3296, case DVR01-0018 ASHLEY MANOR, except as modified in condition herein.
3. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.

COMMISSIONER IRBY asked whether staff had seen any proposals for properties located to the north of the site and Ms. Novak said she believed the property is owned by the Edens' family. She stated that she has met with them and they have been working with some people who are interested in doing a high tech or office related type of business. She said it has just been an inquiry and no formal applications have been filed. The Commissioner said he was concerned that the site would have a suburbia Disneyland type of look and added that he likes the idea of having some unique character and the slate tile roof helps to provide a more authentic look versus a "pretend" look. He stated that his biggest concern was that the view from the street not be overpowering. He said he is now aware of the fact that planting materials are planned for the site and the main view will be the décor into the property and until you get almost half way to the entrance, there is no good view. He stated that his impression from the first rendering was that the building was going to be standing out in the middle of nowhere. He commented that he is leaning a little more in favor of the proposal and said he would like to hear more discussion on this issue.

GEORGE DUERR, 1380 South Price Road, addressed the members of the Commission and said that they are trying to develop a unique concept without going overboard. He added that the European style castle idea was to serve as a "draw" to the site. He stated that his other facility has more of a Mediterranean Spanish style to it. He said they were trying to design it almost "home like" to give it an intimate setting for weddings and functions. He explained that one of the draws of using his facility is that couples or businesses have full use of the facility, it is a private site, compared to hotels where a number of meetings and functions occur at the same time. There is both indoor and outdoor spaces and has been designed to sit back and tie in with the current facility and give it more of a campus environment. He added that the landscaping has been designed so that as it grows in the future the building will not be seen, they are almost trying to give it a "mystic" type look. He emphasized that the building sits approximately 500 feet off of Price Road.

JEFF SWAN, representing Swan Architects, 4331 N. 12th Street, Phoenix, said that the landscaping (trees) down the main drive to the building are evergreen trees spaced twenty to

thirty feet on center. He said evergreen trees are also planned for the north property line at twenty feet on center. He provided a description of the trees (Swan Hill Olive along main drive) and along the north property line.

In response to a question from COMMISSIONER ANDERSON, Mr. Swan said that the olive trees are medium sized (20 to 25 feet high, 20 feet wide evergreens with no olives). He added that the trees on the north side are deciduous.

MR. DUERR said that they would not be adverse to adding a condition calling for evergreen or ficus trees for year round color. Discussion ensued relative to planting pine trees instead at 20 feet on center and the importance of ensuring that ground maintenance is performed for aesthetic reasons.

COMMISSIONER HEUMANN commented on the monument sign and MS. NOVAK said she failed to mention earlier that Stipulation #6 has been added which states, *"freestanding monument signs shall be architecturally compatible with the building's architecture."* She stated that when they come back with a plan staff will make sure that it matches the existing building.

COMMISSIONER HEUMANN said that he is excited about the proposal and agreed that it will be a "draw."

There were no citizens wishing to speak on this item.

COMMISSIONER IRBY MOVED to approve DVR04-0040 The Castle at Ashley Manor subject to all of the stipulations outlined by staff, including #7, that the trees along the north property line be mondo pines planted 20 feet on center, and COMMISSIONER HEUMANN SECONDED the motion which CARRIED UNANIMOUSLY by those present (6 to 0).

D. <u>DVR04-0056 MERCEDES-BENZ & LEXUS OF CHANDLER</u>

Request rezoning from General Industrial District (I-2) and Planned Area Development (PAD) to Planned Area Development (PAD) Auto Park on approximately 22.6-acres with Preliminary Development Plan (PDP) approval for an automobile dealership complex, for property located at the northeast corner of Orchid Lane and Interstate 10.

Planner 1 KEVIN MAYO addressed the Commission relative to this agenda item and noted that the site is the original Auto Nation dealership site. He explained that the sales building and service bays are currently being used by Mercedes-Benz as the result of an approved Use Permit issued in 1996. He pointed out that automotive uses require a Use Permit within the I-2 zoning category. He said that the current proposal calls for the addition of two more dealerships, Lexus and then a future dealership three, which goes beyond the scope of the Use Permit. He stated that the proposal includes the addition of service bays for Mercedes-Benz, the construction of a future Lexus dealership, a third dealership and a future four-story parking garage. It also includes a comprehensive sign package, containing a single 80-foot freeway monument sign located mid-cycle on the freeway. He added that there is an existing 65-foot tall Mercedes-Benz monument sign that will be removed and Mercedes-Benz will be added on to the proposed 80-foot monument sign, which includes a 30-foot tall digital reader board as part of the 80 feet.

MR. MAYO said that staff finds the use to be complimentary and compatible with automotive development in the area and recommends approval subject to the following stipulations:

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "MERCEDES-BENZ & LEXUS OF CHANDLER" kept on file in the City of Chandler Current Planning Division, in file number DVR04-0056, except as modified by condition herein.
2. Right-of-way dedications to achieve half width for Orchid Lane, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.
3. The landscaping in all open spaces and rights-of-way shall be maintained by the adjacent property owner or property owners association, excluding rights-of-way medians.
4. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls.
5. Sign packages, including free-standing signs as well as wall-mounted signs, shall be designed in coordination with landscape plans, planting materials, storm water retention requirements, and utility pedestals, so as not to create problems with sign visibility or prompt the removal of required landscape materials.
6. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.
7. Completion of the construction, where applicable, of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details, and design manuals, as set forth in the Development Agreement.
8. Sign panels on the monument signs shall have a decorative panel consistent with the frame finish, until a tenant name is located on the sign.

In response to a question from COMMISSIONER HEUMANN, Mr. Mayo referred to the four-story garage building displayed on the site plan and explained its exact proposed location. He said that the purpose of the building is to provide additional parking for the future dealerships (storage of new cars). He stated that the details of the four-story garage will come forward at a future time for administrative detail and said he is not sure that a four-story building with a covered fourth floor would be under the 50-foot height limitation.

COMMISSIONER HEUMANN also discussed signage and said that going from a 60-foot non-message board sign to an 80-foot sign with a message board is a large jump. He commented on the large number of signs in that area and expressed concerns regarding the distraction message boards may cause motorists. MR. MAYO provided an overview of the current signage in the area as well as the proposed signage.

In response to a question from COMMISSIONER IRBY, Mr. Mayo advised that the current zoning is R-2 with a 45-foot maximum height limit. Mr. Mayo said that there is a four-story office building located just north on the Tempe side of the retention area. He added that there are multi-story hotels south of Ray Road and added that Earnhardt Ford has a service bay that tops out at 33 feet.

COMMISSIONER IRBY asked Mr. Mayo to provide a comparison of the mixed-use development at Ray and the 101 where a four-story parking garage is located. Mr. Mayo reported that the building initially came in for approval of a five-level parking garage, 65-feet to the top of the fifth level. He stated that it was rezoned and went down to a four-story garage with a

maximum height of 45 feet with additional height for the stairway cover. He said he believed they only took off one floor and then they took the bottom floor sub-grade about six feet, so it is still four levels with a maximum height of 45 feet.

TRACEY MORGAN, representing Mercedes-Benz of Scottsdale, 7450 West Orchid Lane, Chandler, the applicant in this case, addressed the members of the Commission. COMMISSIONER IRBY commented on the fact that the applicant plans to relocate the existing monument sign and Mr. Morgan confirmed that it would be moved approximately 300 feet to the north. COMMISSIONER IRBY said that his concern centers around the parking structure and the possibility of having a building that is 50-feet high. He requested that the applicant provide justification for the tall building. MR. Morgan responded that Mr. Mayo had said that the building was going to be used for automotive storage of new and pre-owned vehicles but clarified that the building is actually for employee parking. He stated that they anticipate that Mercedes-Benz, Lexus and the third dealership will require significant employee parking areas (175 at Lexus in the future, 123-135 at Mercedes-Benz plus employees at the third dealership). He added that the building would be multi-purpose, but the majority of the space would be used by the employees. He said that at this point in time they are not planning to cover the top floor of the structure.

COMMISSIONER HEUMANN commented on the monument sign and said he understands the purpose of the signage but wanted to know the purpose of the message board. Mr. Morgan said as far as the proposed message board goes, it is to display a number of things including new and pre-owned automobiles as well as announce various community events that the dealerships want to support. He added that time, weather, etc. will also be displayed and said he can understand the Commissioner's concern regarding the clutter but said that with the high quality type of vehicles they are talking about, the way they will advertise will be significantly different than some other auto dealers. He stated that the sign will be very tastefully done.

In response to a question from COMMISSIONER HEUMANN, Mr. Morgan said that the City of Scottsdale, where his other dealership is located, has a sign ordinance with a height limitation and monument signs are not allowed. He added that message boards are also prohibited. COMMISSIONER HEUMANN commented that he believes the project is great and would love to have Mercedes-Benz and Lexus in Chandler but his one concern is the signage and the potential for clutter in this area. He added that he believes the signage will be 10 feet higher than anything else in the area.

STEVE MOSS, representing the construction company, reported that the sign they would relocate is a pendant mounted Mercedes sign and not attractive at all and there are signs at each end of the property advertising other businesses and another sign located just off of their property. He reported that those signs are all 65 to 70 feet in height up on the berm along the freeway. He noted that the sign right above their building that makes it look like an Earnhardt Ford building is 80 feet in height. He said that the proposal is to ensure that they are compatible with the other existing signs and added that they are planning to put the sign 60 feet away from the freeway in a round about inside the site itself. He stated that it will be 80-feet high but it will not be located on the berm, it will be down another eight to ten feet below freeway grade.

MR. MAYO clarified that the sign will be approximately 8 to 10 feet below the grade of the other signs.

VICE CHAIRMAN FLANDERS commented on the fact that the signs are located further back on that entire stretch of the freeway and Mr. Mayo agreed with his statement. The Vice Chairman said that the signs are all balanced as far as height goes and he would like the sign to be as high or not higher than the rest of the signs along the freeway.

The applicant responded that they are not asking for an 80-foot sign to be placed alongside a 50-foot sign and noted that the retention berm along the freeway is actually two feet lower than the freeway surface along a majority of the frontage and that is what the signs are sitting on. He added that the proposed sign would be down another five to six feet more at that point.

MR. MAYO pointed out that the sign would be approximately 72 feet in height and in par with the 70-foot freeway Chevrolet sign.

In response to questions from COMMISSIONER HEUMANN, Mr. Mayo advised that at the auto park at Gilbert Road and the 202, three monument signs were approved, 60 feet in height, and said that one had a digital reader board approximately 40 feet tall and the whole sign was digital reader board plus pilings. He added that the freeway Chevrolet's reader board is approximately 10 feet tall and the one currently under discussion is 30 feet in height.

COMMISSIONER IRBY discussed the parking structure and the fact that it would be over an existing retention basin. The applicant explained that the bottom floor will be elevated to allow access for maintenance. He added that there will be approximately 130 parking spaces per level.

Discussion ensued relative to the fact that the applicant anticipates the need for 300 parking spaces just between the Mercedes-Benz and Lexus dealerships; the fact that the building will be multi-purpose but primarily used for employee parking; the fact that there will be parking on the upper level and there are no plans to cover the top floor; and the proposed third dealership and identification of the business on the sign in a limited space.

There were no citizens present wishing to speak on this item.

COMMISSIONER HEUMANN said he believes that bringing Lexus to Chandler is a great addition He stated that he still has concerns regarding the monument sign and particularly another message board. He added that he would like to see a nice quality monument sign without a message board.

The Vice Chairman commented that 30 feet is too high in his opinion and he would like the size to be reduced by a third or 10 feet. He asked staff to comment on the lighting and Mr. Mayo advised that amber bulbs will be used. The Vice Chairman said he would like the sites to be clear and readable but not overly bright. He added that staff should have the ability to review that once the sign has been erected and stated that perhaps a stipulation could be added that provides staff the ability to review light intensities. Mr. Mayo said that staff would be happy to do so.

In response to a question from a member of the Commission, the Vice Chairman said that he did not have a problem with the parking structure and believes it is far enough away from the freeway and adequately shielded by the dealership. He added that the proposal will come before staff for their review and he has confidence that they will ensure that the building's design is in good taste and high quality.

VICE CHAIRMAN FLANDERS said that he has a concern with the 30-foot high illuminated message board and proposed that it be reduced by at least a third. He added that the overall height depends on the finished grade and he would hate to see this 20 feet taller from everything else.

COMMISSIONER HEUMANN commented that with the addition of a third dealership in the future, he would like to have the sign come back to ensure proper spacing, perhaps reducing the message board portion to accomplish unified spacing. Discussion ensued relative to working with staff in an effort to reduce the size and ensure proper dealership name integration and the fact that the issue will come back before staff for administrative review.

COMMISSIONER ANDERSON noted the Mercedes-Benz and Lexus logos and said they are overpowering and might have to be reduced as well to look more like the left side of the sign.

COMMISSIONER HEUMANN MOVED that DVR04-0056 MERCEDES-BENZE AND LEXUS OF CHANDLER be approved subject to all of the stipulations including Stipulation #10?? for the applicant to work with staff in an effort to reduce the size of the message board to no more than 10 feet in size and ensure unified spacing for the names of all three dealerships on the sign. He added that he would like the sign to appear no higher than the others in that area and the applicant should work with staff on this matter as well.

MR. MAYO commented that Stipulation #9 shall read, *"the canopy support columns shall be constructed of a fluted stone material such as but not limited to limestone. Details to be worked out with staff."*

MR. MAYO expressed the opinion that staff will work with the applicant on the lighting levels and a stipulation is not necessary.

Discussion ensued relative to the fact that Stipulation #10 will also state that the applicant will work with staff on the lighting.

COMMISSIONER IRBY SECONDED the motion, which CARRIED UNANIMOUSLY by those present (6 to 0).

E. <u>PDP04-0016 OLIVE TREE PLAZA</u>
Request Preliminary Development Plan approval for a commercial retail center located at the southwest corner of Arizona Avenue and Germann Road.

MS. NOVAK addressed the Commissioners regarding this agenda item and explained that the property was zoned in 1999 in conjunction with a larger zoning case, which included the adjacent apartment complex. The project was approved for the apartment complex and the commercial site was zoned Conceptual Only for C-2 community type uses. She said that the current request is in conformance with the current PAD zoning and includes a mixture of small retail shops, some mid major users and freestanding retail pads, including a bank pad and retail pad at the intersection corner. She added that the freestanding pad at the intersection corner is represented as a 65,000 square foot retail pad and would accommodate a few retail tenants. She said that staff is currently reviewing an application that has been filed for a Quik Trip Gas Station on that corner. She noted that the request this evening was for Preliminary Development Plan approval for the entire 11 acres, and, if approved, will include the retail pad on the corner. She stated that

if the application for the Quik Trip were to proceed through the public hearing process, they would be required to amend the zoning since current zoning does not allow high turnover uses.

MS. NOVAK said that in response to concerns from the Commission relative to integrating a different use on that corner with the project, staff has added some addition conditions including #6, *"the applicant shall work with staff to locate the corner retail pad in a landscaped setting with pedestrian access to the street. The building architecture for the retail pad shall be commensurate with the main center's architecture;"* #7, *"the applicant shall work with staff on the bank's building elevations in accordance with the elevation of the drive through area;"* #8, *"throughout the development Mexican fan palms shall replace date palms,"* and #9, *"the clock towers shall include a clock and signage is not permitted on the clock towers,"* She added that staff recommends approval of the request based on the following stipulations and the above listed added stipulations.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Olive Tree Plaza", kept on file in the City of Chandler Planning Services Division, in File No. PDP04-0016, except as modified by condition herein.
2. Compliance with the original stipulations adopted by the City Council as Ordinance 2980, case PL98-00173 Olive Grove Apartments, except as modified in condition herein.
3. The freestanding pads shall carry an architectural level of detail similar to front facades of main building.
4. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Public Works for arterial street median landscaping.
5. The monument sign's sign panels shall have an integrated or decorative cover panel until a tenant name is added to the sign.

In response to a question from COMMISSIONER HEUMANN, Ms. Novak advised that the application includes two separate tenants with 15,000 square foot uses and they would have to come back for a Preliminary Development Plan amendment if they wanted to have one larger user and combine the square footage. She further explained that she did not know what tenant they are marketing the 30,000 square foot space for but said if they were going to be integrating loading, which might take place in that area, there is an existing perimeter wall. She added that at the time the apartment complex was zoned and constructed, they were required to provide the additional landscape buffering from the project so mature trees are already located adjacent to the wall that will serve as a buffer to the commercial area. She stated the opinion that adequate screening and buffering already exist if a loading area was included.

ROBERT KUBICEK, 11333 N. Scottsdale Road, the applicant in this case addressed the members of the Commission.

COMMISSIONER HEUMANN commented on the integration of the entire project and asked how Kwik Trip would integrate into the proposal as far as traffic flow, etc. Mr. Kubicek said that with Stipulations #3 and #6, he is comfortable that the business would be properly controlled. He added that he will develop the parcel and plan to move forward with the development and incorporate the corner. He said that if approval for the gas station does not go forth, there is a controlled condition in place and they would proceed with the 6500 square foot retail shops. He added that he has seen some preliminary plans and is comfortable with them. He noted that they include some rock features on the front, scored cinder block with colors, etc.

Discussed ensued relative to landscaping and the fact that the first phase will include Major D and Major A, Shops A, B & C as well as the entire perimeter and the incorporation of a corner gateway feature, such as an elevated (2.5 feet high) circular planters containing an olive tree with palm trees on each side; the awning and trellis area; the shade structures; the importance of aesthetically pleasing corner features; two pedestrian access points between the apartment project and the retail center; and the fact that Major A will be designed with a non-loading dock because the size does not call for a large grocery store.

COMMISSIONER IRBY said he had concerns with the corner not having a lot of "pizzazz" as well as the proposed bank and retail architecture. He stated that the south elevation of the retail corner building needs some trellis to give some dimension and character to the backside of it. He added that he likes the trellis features in the center but the south elevation area needs more work. The applicant commented that they avoided water features for conservation and maintenance reasons. COMMISSIONER IRBY commented that sometimes simple is nice and perhaps what is lacking is some different landscape treatments around it, hedges or something to help give it more character.

Discussion ensued relative to whether the issue of the corner should go before the Design Review Board or whether the applicant could work with staff to enhance landscape features and develop a stronger design. The applicant asked whether a taller feature would be sufficient and was advised that it needs a combination of different plant materials at various locations and heights and added design to create an image.

COMMISSIONER ANDERSON commented on the fact that date palms are typically placed on the corners and said there are five varieties of trees in the small area, a mix, and suggested that they put more olives in and add palms to the corner. He added that the planter might need some more work, be taller and contain some feature landscaping. The applicant commented on the seating area and the proposed turf and said they wanted to bring the turf all the way up to the street.

Discussion ensued relative to adding a stipulation that the applicant work with staff regarding an enhanced corner element, incorporating some of the theme trees such as date palms; tile and the fact that a two-piece tile roof rather than one piece looks better to improve the quality look of the project.

There were no citizens present wishing to speak on this item.

The applicant indicated his willingness to work with staff to develop a stipulation regarding the front corner design and asked for clarification relative to the roof time. He was advised that the stipulation was to use a two-piece roof tile as opposed to a one piece.

Additional discussion ensued relative to the two bank elevations and the corner retail pad and the importance of adding more architectural design to them to match the rest of the project and the fact that a stipulation exists that the applicant will work with staff on the building elevations, incorporating the design of the drive through area; the fact that that can be expanded to meet the expressed concerns and call for the addition of enhanced architecture for the rest of the center; the possibility of height variations for the bank building and its materials; staff's intention to state

that she would add "*and provide additional features and vertical elements to tie into the main structure.*"

In response to a question from COMMISSIONER HEUMANN, Ms. Novak advised that there was no need for a bus stop at this location, there is one in the immediate area.

COMMISSIONER IRBY MOVED TO APPROVE PDP014-0016 PALM TREE PLAZA, with the stipulations outlined by staff as well as the additional stipulations outlined above (*#10, the applicant shall work with staff to enhance the intersection corner feature, achieving a stronger landscape theme by adding vertical elements such as date palms, additional planters and walls; #11, roof tiles shall be a two piece barrel tile versus a one piece).*

COMMISSIONER ANDERSON SECONDED the motion.

In response to a question from COMMISSIONER HEUMANN, MS. NOVAK clarified that she added language to Stipulation #7 that reads, *"the applicant shall work with staff on the bank's building elevations, incorporating the design of the drive through area and provide additional features and vertical elements to tie in with the main center."*

The motion CARRIED UNANIMOUSLY by those present (6 to 0).

M. <u>ZCA04-0002 EXPANDED NOTIFICATION REQUIREMENTS</u>

Request approval to amend the Zoning Code to require a six hundred (600) foot notification area for public hearings, Area Plans and Preliminary Development Plans increased from three hundred (300) feet. Additionally, notices would be mailed to Registered Neighborhood Organizations within one-quarter (1/4) mile of the subject property.

Planner 1 JOSHUA COOK advised that this agenda item is a request for approval to amend the Zoning Code to expand the area (from 300 feet to 600 feet) that would be notified for all cases that require a public hearing and come before the Commission and the City Council, including area plans, zoning changes, PDPs. He added that it would also include notification to neighborhood organizations registered through the City and located within one-quarter mile of the subject property. He said that staff has included to definitions, one for area plan and one for registered neighborhood organizations. He explained that this is a staff initiative and they believe that a need exists to provide additional public participation and give more residents an opportunity to participate in the neighborhood's planning process. He said that staff recommends approval.

MR. COOK said it would include every case that the Commission sees including requests for use permits.

COMMISSIONER HEUMANN expressed the opinion that the proposed change is a good one and will provide citizens with added protection.

In response to a request from COMMISSIONER HEUMANN, Mr. Kurtz advised that staff is working on a couple of other aspects of the expanded notification, a new marketing slogan (orange signs) and noted that they contain too much information and are not legible. He said they are just going to put on the signs a case number and what it is about (zoning for a shopping center) along with a telephone number, simple wording, and adding a website. He noted that they

are in the beginning stages of creating a website that everyone can access to look at the various zoning exhibits. He said they are working on re-tooling the orange signs and implementing the website. He added that the lettering will be larger and easier to read.

COMMISSIONER HEUMANN recommended that staff, in the definition of neighborhood organizations, change the word "codes" to "conditions" with a capital C and staff concurred with this change.

MR. KURTZ explained that currently there is an individual who is charged with listing all of them in a registered neighborhood database. He reported that at the current time they have approximately 70 on file and hope to increase that number. He said that they currently do not notify homeowner associations or registered neighborhood organizations but this change will result in them receiving notification.

There were no citizens wishing to speak on this item.

COMMISSIONER HEUMANN MOVED to approve ZCA04-0002 EXPANDED NEIGHBORHOOD NOTIFICATION REQUIREMENTS with one change under neighborhood organizations, change the word "codes" to "Conditions." COMMISSIONER POLVANI SECONDED the motion, which carried unanimously by those present (6 to 0).

The Acting Chairman declared a brief recess at this time and the meeting resumed shortly after.

N. <u>PDP04-0009 BANK ONE</u>

Request an amendment to the Preliminary Development Plan (PDP) for site layout and building design for a new bank on approximately 1.12 acres at the northeast corner of Ray Road and McClintock Drive.

MR. WEWORSKI addressed the Commission regarding this agenda item and noted that this case is part of the Windmill Square mixed use development that was approved for rezoning and PDP in 2003 and included single family development and commercial, retail and office. He noted that the case was continued from the Commissioner's October meeting for design compatibility reasons regarding the theme and the applicant has responded to Design Review comments regarding the amount of drive through lanes, landscaping and the architecture of the building. He reported that the applicant has eliminated one of the drive through lanes (from 5 to 4), added landscaping on McClintock, added a 49" Palo Verde tree and changed the bank drive through roof to a pitched gable roof. He added that they have also added some integrated architectural features that are found in the Windmill Square development. He said that staff was concerned that the applicant provide a safer means for pedestrian movement across the driveways at the drive through bank teller lanes and the applicant has agreed to work with staff to resolve this issue.

MR. WEWORSKI advised that feedback has been received from the neighborhood located adjacent to the site and noted that some are opposed to a bank use versus a retail use. They were also concerned about the five drive through lanes that have been reduced to four and losing the retail component. They also expressed concern regarding notification and the fact that their homeowner's association did not have the opportunity to review the changes. He commented on the fact that the application has been changed a number of times. He said that staff believes the

changes that have been made are compatible with the development and recommends approval subject to the following stipulations:

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Band One," kept on file in the City of Chandler Planning Services Division, in File No. PDP04-0009, except as modified by condition herein.
2. Compliance with the original stipulations adopted by the City council as Ordinance 3444, Case DVR02-0032 WINDMILL SQUARE AND VILLAS, except as modified by condition herein.
3. The applicant shall work with Staff to provide safer pedestrian/motor vehicle movement along the pedestrian crosswalk in front of the bank drive-thru area through additional site design treatments.

COMMISSIONER HEUMANN asked what landscaping has been added and Mr. Weworski outlined the proposed landscaping. Mr. Weworski said that the Commission might want to stipulate that the 36-inch olive trees be five feet high.

COMMISSIONER IRBY asked what staff found out about the pharmacy discrepancies that arose during the Design Review process and staff advised that they had heard that the approved colors and materials were not being used but upon verification found that that was not the case. He added that the photo representations did not accurately portray what had been done. He noted that the architectural renderings portrayed a slightly different character than the actual approved colors and materials. He added that the architectural renderings appeared to portray a barreled roof but the actual sample that they supplied specified a flat tile roof.

COMMISSIONER HEUMANN commented on the parking situation and said it appears that there are only three spaces in front of the bank with direct access. He expressed concern regarding the drive through lanes and crossing over of traffic and congestion.

Discussion ensued relative to the challenge of pedestrian flow from parking areas to the building as a result of the drive throughs and potential conflict that exists.

JASON MORRIS, 2525 E. Biltmore Circle, representing the applicant said that this case has been before the Commission at least twice before. He provided brief history of the case and noted that the site was originally a grocery anchored site, a large commercial site, which never developed. He noted that the developer looked at different options for this site and moved forward with the option of a mixed use concept that had the rear of the property used for 46 single family homes in a gated community with retail in front. He added that the neighborhood commercial is anchored by a CVS and other buildings are either permitted or in the permit process. Mr. Morris said that the site was originally proposed as two 8,000 square foot buildings surrounding a pedestrian plaza and the new proposal takes one of those buildings and replaces it with a 4,000 square foot bank building, half of the originally approved building. He added that although drive through lanes are also being proposed as well as an additional pedestrian area and noted that the in-line shops are moving forward and will have a restaurant tenant. He discussed the initial submittal and subsequent changes and ultimate Design Review. He said that at the meeting the focus was interaction between the pedestrian area, the drive through and the building architecture and what design elements should be taken away from the PDP booklet. He added that he sat through the Design Review meeting and heard comments about whether what was proposed was actually built. He said he wanted the developer to know that that was an issue and encouraged them to

work with staff to investigate exactly what was proposed, what was put through the permit process and what was actually built. He noted that what was proposed was built and to the extent that there were changes or a differentiation between what was in the original Windmill Square booklet and what eventually got built was not in the specs, all of the specs in the booklet were built. He added that the conceptual rendering of one of the buildings, on the cover of the booklet, used a different shape tile.

MR. MORRIS said that they sat down with the members of the Design Review Board and asked what the problematic elements were taking into consideration staff's comments and there were ultimately some changes. He referred to the site plan and noted that the olive trees that will be supplementing existing and proposed landscaping will be 38 inch box trees and if the Commission would like them to stipulate a certain height they would be willing to do so. He added that an additional tree will be added to provide symmetry in the front of the building (a 48"box Palo Verde tree to match the other proposed Palo Verde. He also discussed pedestrian linkage between the parking located on the northern end and the building itself and whether people would be passing by the drive through. He said it is important to note that the drive through for the bank is not a high turnover type use and said volume will be constant, about 4,000 trips per month. He pointed out that the intersection has current traffic volumes in excess of 70,000 trips per day.

MR. MORRIS noted that they have lost one lane leaving three covered teller lanes and an outside ATM lane but added that the stacking distance is not significant, it is relatively short. He referred to a connection to the parking lot and said that additional parking spaces are going to be developed for the other shop space. He added the opinion that pedestrian traffic will not be inhibited as a result of the drive through lanes. He discussed other changes that the applicant has made and displayed an alternate design with a tile roof selected by the Design Review Board. He noted that the landscaping was enhanced as a result of the lost lane but because of the design, it did not all go back to landscaping because the arch drive through has a wide opening and the columns became wider as well. He stated that the other significant change requested by the Design Review Board was to look at moving the drive through lane off the same plane as the building itself to provide some positioning difference on the western elevation. He added that a gable roof was the preferred choice and they are also looking into creating some recesses in all of the elevations. He noted that the building now has a stucco finish instead of the sand finish on the building.

MR. MORRIS discussed the theme wall and explained that it is a curved wall in front of the building, a signature for the Bank One building. He said they looked at different materials to make the wall stand out and said it was difficult for Bank One to pick a material that would be appropriate for the theme wall that did not yet exist within the PDP packet.

Discussion ensued relative to communication with the HOA and the applicant's intention to provide them with information; their concerns regarding the materials and ensuring that the same materials and design concept would continue and that all of the proposed uses remain in place; the fact that a neighborhood meeting was not held for this case, however in this instance notice was optional and done out of courtesy.

In response to a question from COMMISSIONER GULSVIG, Mr. Weworski explained that the site is under one homeowners' association and prior to changing zoning two years ago, they met with the HOA and received approval. He said the only remaining approval is the final approval

of designs, which includes landscaping. He noted that assessments will also be fixed so residents can pay into the HOA. He concurred that the HOA does in fact have jurisdiction in this area.

COMMISSIONER IRBY referred to the final design and said he likes it better than the original proposal but is disappointed that the roof tile is different than he had thought. He commented on the theme wall and asked whether they explored the possibility of perhaps putting in a wainscot similar to what is on the building, maybe a little higher. MR. MORRIS said that they did look at this and there is a possibility of utilizing stone or slate but they wanted to wait until they received more direction on the last element. COMMISSIONER IRBY also commented on the elevations and referred to the drive through columns (the distance from the top of the arch to the tile). He said he preferred bringing the tile a little closer to the arch to create improved proportions. He added that on the north elevation, each column contains a light fixture and he said he thinks it would help if that same design element is used on the west elevation as well to provide additional character. The architect had no objections to the suggestions.

Additional discussion ensued relative to traffic levels and teller hours; concern regarding pedestrian access in view of the four teller lanes and the importance of identifying effective mitigation; the fact that a lane was eliminated to reduce the impact but pointed out that changing the number of lanes will not change the volume; staff's opinion that a majority of pedestrian access will not occur in that area and there will not be significant interaction with the cars; the applicant's willingness to work with the Planning & Zoning Commission; the fact that peak hours at the drive through lane occurs depending upon when pay periods occur and Fridays/off hours (lunch) have more volume; staff's estimate that each transaction takes approximately four to five minutes; the fact that in similar situations staff has requested enhanced pavement treatment; small signage for pedestrian notification; the fact that there will be two tellers, and access from the public street.

COMMISSIONER ANDERSON commented on Stipulation #3 and encouraged the applicant to add planters with a small tree, etc. at the drive through islands to enhance safety by making people go slower and pay attention.

There were no citizens wishing to speak on this item.

COMMISSIONER HEUMANN reiterated his concerns regarding the safety of pedestrians in the drive through area. Staff said they are comfortable with working with the applicant to provide extra paving and other items as discussed to enhance safety. Mr. Weworski stated the opinion that given the direction of the Commission the language in Stipulation #3 would suffice but added that alternative language could be substituted if it is the desire of the Commission. He said they could add to the end of the sentence that *"they will add planters, extra textured paving, etc."* to enhance safety.

COMMISSIONER HEUMANN commented on the addition of Stipulation #4, that the trees along McClintock will be 36" box trees, nine feet planting height and Stipulation #5, that the west elevation will incorporate on the drive through columns, light fixtures as shown on Sheet A3.2; and that the tiled portion of the roof structure will be lowered somewhat and a stone wainscot will be created on the theme wall and will be built a little higher (minimum of 18 to 24 inches higher) than the rest of the wainscot around the building.

COMMISSIONER HEUMANN MOVED TO APPROVE PDP04-0009 BANK ONE subject to staff's Stipulations 1, 2 and 3 and additional Stipulations 4, 5 and 6 as outlined above. COMMISSIONER SULSVIG SECONDED the motion, which CARRIED UNANIMOUSLY by those present (6 to 0).

6. DIRECTOR'S REPORT

None.

7. **CHAIRMAN'S ANNOUNCEMENT**

The next regular meeting is Wednesday, December 15, 2004 at 5:30 p.m. in the Council Chambers.

8. **ADJOURNMENT**

The meeting was adjourned at 8:17 p.m.

_____
Michael Flanders, Vice Chairman

_____
Douglas A. Ballard, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, December 15, 2004, held in the City Council Chambers, 22 S. Delaware Street.

1. Vice Chairman Flanders called the meeting to order at 5:30 p.m.

2. Pledge of Allegiance led by Commissioner Irby.

3. The following Commissioners answered Roll Call:

   Vice Chairman Michael Flanders
   Commissioner Jeanette Polvani
   Commissioner Mark Irby
   Commissioner Brett Anderson
   Commissioner Dick Gulsvig

   Absent & Excused: Chairman Phil Ryan and Commissioner Heumann

   Also Present:

   Mr. Jeff Kurtz, Current Planning Manager
   Mr. Joshua Cook, Planner
   Ms. Ashley Lumpkin, Planner
   Ms. Jodie Novak, Planner II
   Mr. Thomas Ritz, Planner
   Mr. Glenn Brockman, Assistant City Attorney
   Ms. Linda Porter, Clerk

4. APPROVAL OF MINUTES

   MOVED BY COMMISSIONER IRBY and SECONDED BY COMMISSIONER GULSVIG to approve the minutes of the December 1, 2004 meeting. **MOTION CARRIED UNANIMOUSLY BY THOSE PRESENT.** (5 to 0).

5. CONSENT AGENDA ITEMS

   VICE CHAIRMAN FLANDERS stated that Commission and staff had met prior in a Study Session to review several of the items on the agenda. He read the Consent Agenda items as being Item A, Item B, Item D, and Item E. He added that the Action Agenda items are Item C – PDP04-0024 COSTCO WHOLESALE; Item F – PDP04-0022 MILGARD MANUFACTURING, INC.; and Item G – UP04-0026 VALLEY SILVER BULLET EQUESTRIANS.

   The Vice Chairman asked whether anyone in the audience wished to remove any of the items from the Consent Agenda. He clarified that Agenda Items A and E were originally Action Items but at the Study Session they were moved to the Consent Agenda. He said that the applicants for both of those agenda items have requested a continuance (Item A to the February 16th Planning & Zoning meeting and Item E to the January 19th Planning and Zoning meeting).

A. DVR04-0032 RIGGS GATEWAY

CONTINUED TO FEBRUARY 16, 2005, PLANNING AND ZONING COMMISSION AGENDA a request for rezoning from Agricultural District (AG-1) to Planned Area Development (PAD) for a commercial center including a Large Single Use Retailer with Preliminary Development Plan on approximately 30 acres. The development is located on the northeast corner of Arizona Avenue and Riggs Road. The Major anchor tenant may include a Wal-Mart Supercenter.

B. DVR04-0044 CEDAR PROFESSIONAL CENTER

APPROVED a request for rezoning from Agricultural District (AG-1) to Planned Area Development (PAD) with Preliminary Development Plan (PDP) approval on approximately 1.5-acres for the construction of a Medical/General Office building located south of the southeast corner of Ray and McQueen Roads.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "CEDAR PROFESSIONAL CENTER" kept on file in the City of Chandler Current Planning Division, in file number DVR04-0044, except as modified by condition herein.
2. Right-of-way dedications to achieve full half width for McQueen Road, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.
3. The landscaping in all open spaces and rights-of-way shall be maintained by the adjacent property owner or property owners association.
4. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls.
5. Sign packages, including free-standing signs as well as wall-mounted signs, shall be designed in coordination with landscape plans, planting materials, storm water retention requirements, and utility pedestals, so as not to create problems with sign visibility or prompt the removal of required landscape materials.
6. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.
7. Completion of the construction, where applicable, of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details, and design manuals.
8. The site shall be limited to a single monument sign along McQueen Road.
9. The applicant shall work with Staff to incorporate a lighter color palette on the building facades.
10. The building tenant signage shall be limited to non-illuminated, pin-mounted, flat-black metal letters, with varied font letter styles permitted.

D. UP04-0050 COSTCO WHOLESALE

APPROVED a request for Use Permit approval to sell liquor (Series 9) in a new store to be located at the Southeast Corner of Chandler Village Drive South and Galleria Way.

1. The Use Permit is for a Series 9 liquor license only, and any change in type of license shall require reapplication and new Use Permit approval.
2. Expansion beyond the approved Floor Plan shall void the Use Permit and require new Use Permit application and approval.
3. The Use Permit is non-transferable to any other store location.

E. GPA04-0003 CHANDLER 202 AUTO PARK PHASE II

CONTINUED TO THE JANUARY 19, 2005, PLANNING AND ZONING COMMISSION AGENDA a request to amend the General Plan by re-designating approximately 16-acres located at the northwest corner of Pecos and Gilbert Roads from Low Density Residential to Regional Commercial.

In response to comments and concerns from a member of the audience, Vice Chairman Flanders stated that there would not be any Council or staff discussion taking place regarding the auto mall issue. He added, however, that if citizens wished to present comments, they had the right to do so and their concerns will become part of the record. He confirmed that no decisions would be made on that agenda item this evening.

A member of the audience asked whether the reason for the continuance of the two agenda items would be made known and Vice Chairman Flanders responded that the Council was not made aware of the reason for the requested continuance. He added that from what he has read in the paper, it appears the applicants were looking at working with the neighbors on a continuing basis in an effort to clarify and address concerns regarding both items.

GLENN BROCKMAN, ASST. CITY ATTORNEY further clarified that the applicants requested a continuance and said that the Commission does not have enough information before it to act on those items at the present time. It was stated that the decision to continue the matter will be the Commission's when they vote and the reason why the applicants aren't ready tonight or have asked for a continuance is not something they were told. The member noted that on the other hand the Commission is not prepared to make a recommendation to Council on either one of those items and that is why they intend to continue them.

Mr. Garcia addressed the Commission and asked whether it was necessary to attend the City Council meeting the following day to speak on those items if they are both continued this evening. Vice Chairman Flanders explained that if the Commission does not approve the General Plan amendment for the auto mall, Council will not hear the matter. It was noted that the Council would not be able to act on the matter until a recommendation comes forward from the Planning and Zoning Commission and therefore if the item is continued this evening, the Council will not discuss this matter at their meeting tomorrow evening.

Vice Chairman Flanders also confirmed for Mr. Garcia that he and any of the neighbors who wish to speak on this matter will be given the opportunity to do so at the January 19th meeting. Mr. Brockman stated that they will retain the yellow speaker requests that were

turned in this evening on Items A and/or E, they will become part of the record and they will be able to speak on the matter at the next meeting.

Mr. Garcia questioned whether Chairman Ryan would be present at the next meeting and asked for an explanation of the difference between an excused and unexcused absence. The Vice Chairman responded that Chairman Ryan recently underwent heart surgery and said that Commissioners who do not plan to attend the meetings typically give staff as much notice as possible and they are then excused from the meeting. In response to an additional question from Mr. Garcia regarding the speaker process that would be followed at the continued meetings, Vice Chairman Flanders said that typically, depending upon the number of citizens wishing to speak, each are given anywhere from one to three minutes to present their remarks. He confirmed that citizens can yield their time to someone else if that person requires additional time.

An additional member of the audience came forward and asked what he should do with the yellow speaker slip he filled out and was directed to hand it to staff.

Vice Chairman Flanders reiterated his request that citizens come forward at this time if they wish to remove any items from the Consent Agenda.

Gary Hawk, a Chandler resident, asked the Commission to clarify what a continuance to February 16th means (in regard to Agenda Item A. Vice Chairman Flanders said that it is his understanding from newspaper articles he has read that the applicant wanted to spend more time with the residents in an effort to identify and address their concerns. It was reiterated that the Commission will vote on whether to continue both items. Mr. Hawk further stated that two meetings were held by "specialized partners" rather than "diversified partners" and added that Diversified Partners held two meetings, one a couple of days ago and one on November 17th, both at Hamilton High School. He expressed the opinion that a huge amount of opposition was expressed and over 300 Chandler residents signed a petition against that particular zoning. He was informed that the Commission has received a copy of those names. Mr. Hawk added that a significant amount of feedback from the community has been received and said at the meeting they stated that there is a 50-50% representation of for and against Wal-Mart. He expressed the opinion that the statement was a misrepresentation and wanted it noted in the record of the meeting. He added that although they said there has not been much input, there has been a significant amount of input and residents have been contacting the applicants and the Councilmembers and expressing opposition. He encouraged the members of the Commission to deny the continuance and vote against the big box zoning.

MOTION BY COMMISSIONER POLVANI, SECONDED BY COMMISSIONER IRBY, TO APPROVE THE CONSENT AGENDA subject to conditions as recommended by Staff.

5. ACTION ITEMS

C. PDP04-0024 COSTCO WHOLESALE

Request approval for a warehouse style retail store and gas station and freestanding pads located at the southeast corner of Chandler Village Drive South and Galleria Way.

Current Planning Manager Jeff Kurtz discussed this request for Preliminary Development Plan (PDP) approval for a warehouse style retail store and gas station and freestanding pads. He noted that the site is 19.44 acres in size and the project includes a 149,993 square foot warehouse retail building, gas station and approximately 23,300 square feet of freestanding pads. He pointed out that the Commission was provided two separate development booklets because two different teams worked on the project, one addresses the Costco building and the gas station and the other addresses the freestanding pads. He said that the property is part of the Chandler Fashion Center regional mall master plan and was zoned PAD in February 2000 to allow for commercial uses (C-1 and C-2). He explained that this part of the regional mall master plan (Parcel G) encompassed approximately 84 acres bounded on two sides by freeways and the other two sides by collector streets. He added that Parcel G development rights, granted under the PAD zoning, expected intense building coverages or increased building heights in comparison with the balance of the regional mall master plan.

Mr. Kurtz informed the members of the Commission that the application includes PDP for site plan, building elevations and signage and noted that the site plan includes the building locations, parking lot arrangement, and overall landscaping. He pointed out that a specific plan is provided for the gas station freestanding pad, while the other freestanding pads are shown in a possible configuration with the exact amount of buildings and placements to be determined through administrative review. He stated that the building elevations include specific plans for the Costco building and the Costco gas station and said the other freestanding pads are represented by quality exhibits and will be reviewed by staff in detail for substantial conformance with the quality exhibits prior to building permit issuance.

Mr. Kurtz provided an overview of other commercial entities in the area (Target, DSW Shoes, etc.) and said that the Hearthstone single-family subdivision is located west of the property and separated from the mall by a 100-foot greenbelt retention basin. He stated that unique landscape contouring, plantings and screen walls are incorporated into the greenbelt to further buffer the site's impacts on the neighborhood. He pointed out that the gas station will be located on the northeast corner, furthest away from the adjacent neighborhood and discussed access, streetscape landscaping that will continue the design theme, screen walls and on-site pedestrian special interest features at the building's entrance and at the site entry including seating areas, decorative concrete, low walls and architectural trellis.

Mr. Kurtz noted that the Costco building is a composition of a variety of materials used to mitigate the building mass by introducing elements that accentuate multiple planes, varied heights and human-scale elements. He also discussed the project's signage and said that it is a comprehensive sign program and includes only building signs. He stated that the Costco building signs are individual reverse pan channel letters and are colored red or blue and the signs are illuminated by exterior decorative spotlights constructed above the sign. He advised that the smaller tire center services sign will also be individual letters mounted on the building wall and the freestanding pads signs will follow the same criteria used on the balance of the Parcel G area.

Mr. Kurtz informed the members that a neighborhood meeting was held on October 27, 2004 and attended by a group of residents from the Hearthstone neighborhood. He said the group was supportive of the development request and suggested some modifications to improve the project, which included further enhancement of the architectural design and specific landscaping placement. He reported that the building design has been changed by

incorporating a wider variety of building materials and thickened tree plantings (Aleppo Pines) have been added at the gas station streetscape along Galleria Way. He stated that staff believes the proposed building is one of the finest Costco buildings they have ever seen and recommends approval of the Preliminary Development Plan subject to the following stipulations:

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Costco Wholesale," kept on file in the City of Chandler Planning Services Division, in File No. PDP04-0024 Costco Wholesale, except as modified by condition herein.
2. Aleppo Pines shall be used along the Galleria Way streetscape at 15 foot on center adjacent to the gas station parcel to provide additional screening to the west.
3. The landscaping in all open spaces and rights-of-way shall be maintained by the adjacent property owner.
4. The parking lot lighting illumination standards (light intensity and pole heights) shall not exceed those illumination standards used at the mall and Target parking lots.

Vice Chairman Flanders requested that the applicant come forward at this time.

PETER CLEMENT, 17300 Redhill Avenue, Irvine, California, the Costco Real Estate Development Manager for the project, said that his company has been working on this project for quite a while and is excited about the prospect of coming to Chandler. He added that the project's civil engineer is also present and they will be happy to answer any questions from the members. He said he sat in on the Study Session and is aware of the fact that there are issues associated with the gas station stacking and the proximity of the entry for the tire center.

COMMISSIONER IRBY commented that the proposal represents a great use and he would like to see this project move forward. He added, however, that as a customer of Costco he has experienced issues with pulling into the center and being blocked by vehicles attempting to access and exit the gas facility. He said he finds the location of the gas facility to be inappropriate and added that a majority of his issues have to do with the site plan and relocating the gas facility to a more southwestern location on the property. He added that his second concern has to do with the fact that a majority of the parking is located west of the facility and the tire center is located right near the front door on the west side of the building. He stated the opinion that it would work better for pedestrians parking their cars and trying to walk in if they didn't have to fight traffic at the tire center. He suggested moving the tire center to the south.

MR. CLEMENT addressed the gas station issue and said they had looked at several locations for the facility and they too are concerned about stacking, pulling into the driveway and maneuvering into parking spaces. He noted that if people have a bad experience accessing and parking at the site, they won't come back. He said they have met with the neighborhood group and showed them different site plans, one that had the gas station further southwest up against Chandler Village Drive and another that showed it up against the main cross aisle. He referred to a site plan displaying the different versions and briefly outlined the reasons behind them. He noted that one of the plans went from the typical three-island design to four islands and increased the stacking area from 110 to 120 feet to accommodate any overflow. He pointed out that they are able to gauge their business based on the existing membership with some added growth factors and stated the opinion that they have addressed the stacking issue.

COMMISSIONER IRBY said that he disagreed and that a majority of the people will be coming down Galleria Way, which will be almost the first entrance to the project. He added that people typically pull into the closest entrance. He stated that if they are traveling down Galleria Way, they will probably pull into the middle driveway. Mr. Clement agreed that this may occur but added that they have done their best to make that first driveway as inviting and wide as possible. He noted that the goal is to keep people in vehicles away from the front door and have them filter into the parking area before reaching the front door in order to avoid pedestrian traffic.

COMMISSIONER IRBY commented that the initial location was on the very south side, pad number three, and agreed that it was too close to the neighbors. He added the opinion that the second location was more appropriate and said he leans toward pushing the gas facility just to the east of pad number 3 so it is out of the way of people, parking and pedestrians trying to access the facility. He said he believes it would result in a better flow of traffic.

MR. CLEMENS also commented on Commissioner Irby's concerns regarding the tire shop and said their new prototype has access from inside the warehouse. He stated that the interior entrance will be located next to the membership counter and should alleviate the Commissioner's concerns. He added that tire sales have increased as a result of the interior access.

COMMISSIONER IRBY commented on the main entrance located on the west drive off of Galleria Way and the fact that it looks like a main entrance. He stated that he would like to see the architecture that could happen with an entrance like that moved to the middle drive to bring the traffic into the site before it filters around.

VICE CHAIRMAN FLANDERS asked whether any members of the audience would like to speak at this time.

LEIGH RIVERS, 3737 West Geronimo Street, said that when the members of his neighborhood sat down with the applicants they talked in great length about the project. He stated that when they left the meeting they felt they had an awesome project that they could support. He added that living in the neighborhood and driving to, from and around this area every day, if Chandler Village Drive is going to handle the major traffic flow around the project, it is not going to be on Galleria Way. He said the only way the traffic will get to Galleria Way is to go north on Chandler Village Drive from the freeway. He noted that there is a dedicated off ramp on the freeway at McClintock that takes the traffic down the south side of the Santan Freeway, across a dedicated bridge and across Chandler Village Drive south shown on the map. He expressed the opinion that the major entry will be the one off of Chandler Village Drive. He added that if people go north and turn around on Galleria Way, the next major entrance they will use is the one so dedicated by the developer. He stated that he believes this would fill the west parking lot before the north parking lot. He noted that they repeatedly asked the applicant to put the gas station as far away from their homes as possible and said they obliged them and placed it all the way over on the right side on the far east side, gave it its own entrance, gave it its own queuing area around it and he would hate to see that removed at this time.

MR. RIVERS commented that the building itself is terrific and the height is acceptable. He added that the residents also talked to them about the placement of some of the signs, which has not yet been mentioned. He said if he is going to shop at a Costco located this close to his home, he will make trips over there just to buy gas. He expressed the opinion that the only way to get people to access the site off of Galleria if they come in off of the 101 or Frye Road south from the

mall is to have them make a left turn into the project. He stated the opinion that the farthest one over to the left and the farthest one to the west would be the best one for a major entry because there is going to be a backed up line of people turning left. He pointed out that there are not many cars that travel along Galleria Way yet and added that he favors allowing the gas station to remain where they have proposed at the resident's request.

MR. CLEMENT also discussed the screening of the receiving dock and noted that not only is the gas station location away from residents, a landscaping screen and a building will also shield the building docks from Galleria Way.

VICE CHAIRMAN FLANDERS stated that one of the things the Commission looks at is the screening of loading docks and said he was glad to see the proposal that has come forward.

COMMISSIONER GULSVIG asked whether the fence or the wall on the freeway site was open and Mr. Clement responded that he believes there is an 8-foot block wall.

MR. KURTZ commented that there is an existing retention basin that will be reconfigured because of this project that has a wrought iron wall around it for safety and security reasons but added that he does not remember any fence or wall on the southern property. He added that the Code would not require it.

VICE CHAIRMAN FLANDERS asked whether ADOT (Arizona Department of Transportation) requires some sort of barrier between City of Chandler and ADOT property. Mr. Kurtz responded that there would be a barrier further away from the site but staff does not recall a wall. Discussion ensued relative to the fact that a six-foot chain link fence would be located on the southern boundary.

Discussion ensued relative to whether a six-foot fence was appropriate for this location and staff advised that it was.

MR. KURTZ discussed landscaping and screening and said the site would not be seen from the ramp that goes down to the 202.

COMMISSIONER POLVANI commended the applicant, neighbors and staff for their efforts to resolve issues of concern.

VICE CHAIRMAN FLANDERS posed questions regarding signage and Mr. Kurtz stated that there are no mall signs along this portion of the freeway and Costco will not have any monument signs. He added that the building signage on the freestanding pads will be simply building signage, not monument signs.

COMMISSIONER ANDERSON said he concurred with Commissioner Irby's concerns regarding the tire shop and added that he believes along Chandler Village Drive, getting off the freeway, will be a major entrance and access is right at the tire center with parking on the west side and traffic will have to cross from the tire center to get to the main door. He stated that it will be a great, quality project and complimented the applicant on his presentation. He further stated that his only concern is regarding the location of the tire center and a potential pedestrian conflict that it creates. He suggested creating a walkway across the end of the islands with some special gating between it to provide citizens with enhanced safety.

MR. CLEMENT noted that what the site plan does not show is that they have striped that area out in front of the bays with reflective yellow paint or white paint to call attention to the fact that people are in front of tire bays. He said that from an operations standpoint, the employees really pull the cars in and out, not the customers, and once the cars are pulled into the bay a chain is put across the bay. He stated that the area is not very active and the area, from a dock standpoint, is typical and works efficiently. He added that he is not aware of any accidents occurring as a result of the siting.

VICE CHAIRMAN FLANDERS asked how many cars went through the area on an average Saturday and Mr. Clement said he did not know, Saturdays are fairly busy. He said when he does his shopping on a Saturday at a Costco near his home, he parks near the tire center because it is far enough away from the entry to be deemed undesirable. He stated that he walks in front of it all the time and it is not an issue.

COMMISSIONER IRBY commented on the new prototypes that have the tire shop closer to the front of the facility and asked where the bulk of the traffic was coming from. Mr. Clement responded that in this particular case, in order to have the majority of parking located where people are coming from, they put the big field at the crux where the two driveways are. Commissioner Irby asked whether the majority of the tire shop parking would be better located on the north side of the building versus the west side. Mr. Clement responded that there is a lot of stuff happening on the north side, a pharmacy, racks, etc. He reiterated that employees drive the cars in and out and that is a corporate policy.

VICE CHAIRMAN FLANDERS said he believes the issue of the tire center and pedestrian traffic is an important concern and asked staff whether they believe they could work with the applicant to enhance safety in this area.

MR. KURTZ stated that Commissioner Anderson's suggestion regarding the placement of identifiable walkways between the enhanced landscaped medians that will be placed for shielding purposes makes a lot of sense and staff would like to pursue that matter.

VICE CHAIRMAN FLANDERS noted that an additional stipulation calling for the applicant to work with staff on pedestrian walkways in front of the loading bay areas will be added.

The Vice Chairman asked for a motion on this item.

COMMISSIONER POLVANI MOVED TO APPROVE PDP04-0024 COSTCO WHOLESALE subject to the conditions outlined by staff as well as the added stipulation noted above. **COMMISSIONER GULSVIG SECONDED** the motion which **CARRIED BY MAJORITY VOTE** of those present of those present (4 to 1).

F. <u>PDP04-0022 MILGARD MANUFACTURING, INC.</u>
Request Preliminary Development Plan approval for site layout and building architecture for a glass manufacturing facility located at the Southwest corner of Nevada Street and Palomino Drive.

Planner I Joshua Cook addressed the members of the Commission relative to this agenda item requesting Preliminary Development Plan (PDP approval for site layout and building architecture

for a 163,500 square-foot glass manufacturing facility located on a 17.6-acre site). He explained that the property lies within the Westech Corporate Center development at the Southwest corner of Palomino Road and Nevada Street and noted that the property is current vacant and maintained in a clean, weed-free condition. He added that the Westech Corporate Center is part of the Westech PAD that received conceptual zoning in 1985 and said the site is bordered on all four sides by industrial-zoned property. He advised that the project will consist of approximately 137,000 square feet of warehouse area and 26,500 square feet of office area. The building will be set back from the north property line approximately 300 feet, the office will be set back from the east property line approximately 140 feet and the distance to the warehouse area will be approximately 210 feet.

Mr. Cook said that in response to concerns expressed during the Study Session questions arose regarding a wall and therefore a sixth stipulation has been added calling for the applicant to work with staff to add more variety to the wall, include additional materials as well as varying the wall height.

Mr. Cook noted that the site plan shows truck doors located along the building's north, south and west sides and said there will be a total of twenty truck doors along the north side, approximately 14 feet in height. He added that there is a large truck well approximately 60 feet deep that allows the doors to be placed flush with the ground and reported that there will be four large truck doors on the south and six on the west. He advised that the material to construct the windows is dropped off on the north side and then as it moves through the manufacturing process, the finished product is moved south and west where it exits the site. He said that the applicant has included large 48-inch box trees along the north and added that the doors on the building's north and south sides will not be visible from the street due to the amount of landscaping and walls. He stated that site landscaping exceeds Zoning Code requirements and includes a gathering place on the property's east side. He said a large tree will be planted in front of the office area that will have seating surrounding it for employees to gather and will also generate some visual interest.

Mr. Cook stated that staff recommends approval of PDP04-0022 MILGARD MANUFACTURING, INC. subject to the following stipulations:

1. Compliance with original stipulations adopted by the City Council as Ordinance No. 2858, in case PL98-0020 WESTECH PAD.
2. Development shall be in substantial compliance with Exhibit A, Development Booklet, entitled "MILGARD MANUFACTURING, INC," kept on file in the City of Chandler Current Planning Division, in file number PDP04-0022, except as modified by condition herein.
3. The landscaping in all open spaces and rights-of-way shall be maintained by the adjacent property owner or property owners' association.
4. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls.
5. Sign packages, including freestanding signs as well as wall-mounted signs, shall be designed in coordination with landscape plans, planting materials, storm water retention requirements, and utility pedestals, so as not to create problems with sign visibility or prompt the removal of required landscape materials.

COMMISSIONER GULSVIG indicated that he asked that this item be pulled from the Consent Agenda because he has concerns regarding truck traffic through a facility of that size.

Mr. Cook said that the property is zoned industrial and added that the distribution of truck traffic was anticipated with this business park and it is an allowable use. He added that this issue was discussed with the applicant and there will be a total of 30 trucks per day (15 in the morning and 15 in the afternoon (pickup and delivery). COMMISSIONER GULSVIG asked whether the entire area was commercial and Mr. Cook responded that it is all zoned industrial.

COMMISSIONER IRBY referred to Phase 2 of the site plan (additional parking) and asked whether that was because there was proposed expansion to the building or in order to meet employee needs. Mr. Clement advised that Phase 2 will occur within the next ten years and the plan is to add another 60-foot segment to the building and they are providing the number of parking spaces needed for both Phase 1 and Phase 2 at the current time. He confirmed that the expansion would be to the west and the truck traffic to the west will be pushed out. He added that there is sufficient room to allow that to occur.

In response to a question from VICE CHAIRMAN FLANDERS, Mr. Cook advised that the elevations were labeled incorrectly.

The applicant was not present and there were no citizens present wishing to speak on this item.

COMMISSIONER POLVANI MOVED that PDP04-0022 MILGARD MANUFACTURING, INC. **BE APPROVED** subject to staff's stipulations including the sixth stipulation (applicant will work with staff to add more variety to the wall and include additional materials including varying the heights of the wall). **COMMISSIONER IRBY SECONDED** the motion, which **CARRIED UNANIMOUSLY** by those present (5 to 0).

G. <u>UP04-0026 VALLEY SILVER BULLET EQUESTRIANS</u>
Request Use Permit approval to allow for additional horses to be kept on the property as part of equestrian uses. The subject property is located at 1991 S. Tumbleweed Lane.

Planner 1 Ashley Lumpkin addressed the Commission regarding this request for a Use Permit to allow for additional horses to be kept on property in conjunction with a therapeutic and recreational horse-riding clinic on Agricultural (AG-1) property. She noted that the2.5-acre site contains a single-family home, a barn, a number of pens, an arena, and two pastures. She added that the site is maintained in a weed-free manner and rural residential properties border the site on all sides except to the east, which it is bordered by Sienna Heights, an 11,000 to 18,000 square foot lot size single-family subdivision. She advised that the Tumbleweed Lane neighborhood includes 12 homes with pastures, barns, livestock and homes of varying styles and ages. She said that the rural subdivision consists of an average of 2.5-acre lots with septic and a private well system and noted that it was annexed into the City in 1982. She stated that Tumbleweed Lane has been an unimproved dirt road since annexation and is a private roadway in which each property fronting onto it owns half of the right-of-way for the length that it is adjacent to the property.

Ms. Lumpkin informed the Commission that in 2000, a Use Permit for Valley Silver Bullet was approved to allow a non-profit organization to provide free therapeutic and recreational horseback riding lessons to physically and/or mentally challenged individuals of all ages. Previously, horseback riding lessons were given either individually or to groups of individuals at one time. She noted that the groups consisted of approximately six individuals and lessons, if scheduled,

took place in the early evenings on Mondays or Saturday mornings. She said the organization has been operating with a Use Permit for approximately four years but has added additional horses and classes to the program triggering the need for a new Use Permit.

Ms. Lumpkin explained that the request is to allow the provision of therapeutic and recreational horseback riding lessons to individuals of all ages and added that classes would contain a maximum of 14 individuals and an average class size of 8 to 10 students. She stated that the 2004 fall class schedule had classes on Tuesday and Thursday evenings and it has recently concluded. She added that the upcoming 2005 schedule shows classes will be scheduled on Tuesdays from 8 a.m. to 10 a.m. and then from 6 p.m. to 8 p.m. She advised that volunteers man the organization and all vehicles associated with the program are parked within the subject property. She reported that currently approximately 18 to 24 horses associated with Valley Silver Bullet rotate over various neighborhood pastures. She stated that the applicant has indicated rotating horses over additional acreage is healthier for the horses and helps with class sizes and irrigation.

Ms. Lumpkin discussed the fact that the subject site and surrounding neighborhood are designated as low density residential in the General Plan and added that the previous Use Permit was consistent with the General Plan designation because it is compatible with the existing character of the rural residential neighborhood. She noted, however, that staff believes increasing the number of horses to between 18 and 24 and an increase in the number of classes offered is no longer compatible with the rural residential neighborhood. She said that after analyzing the request and conducting site visits, staff believes that the impacts (dust, traffic, hours of operation, additional horses) created from the use, as it has expanded since 2000, are no longer compatible with the area. She reported that staff observed on two separate occasions more than 19 horses on the property at one time (versus original 6) and several horse trailers on site. She stated that staff believes Valley Silver Bullet's increase in classes generates a heavier amount of traffic because individuals do not travel in one van or bus to the class, but rather use individual transportation. She added that the request was noticed in accordance with the requirements of the Chandler Zoning Code and at a neighborhood meeting, attended by 14 property owners, concerns regarding dust and traffic on Tumbleweed Lane were expressed. She said the applicant indicated that all vehicles associated with the organization would be parked on site and out of the private roadway and stated that the number of horses on the property and transporting the horses between properties are also concerns. She advised that the applicant agreed to have all loading and/or unloading of horses occur on site and out of the roadway. Residents at the neighborhood meeting also indicated that Maricopa County had sent out letters to alert them of an anonymous complaint about dust. She reported that to date staff had received two telephone calls and one letter from residents opposed to the Use Permit and said that concerns included the amount of water used for all the horses and sprinkling the ground to mitigate dust concerns, the number of horses, and traffic for the classes. She added that staff has also received several letters of support of Valley Silver Bullet.

Ms. Lumpkin stated that staff, finding the use to be compatible with the General Plan but additional horses to be incompatible with the surrounding uses, recommends approval of UP04-0026 VALLEY SILVER BULLET EQUESTRIANS Use Permit, subject to the following conditions:

1. The Use Permit is valid for one year and may be extended upon application of a new Use Permit subject to review by the Planning and Zoning Commission and approval by the City Council.

2. Expansion beyond the attached Site Plan shall void the Use Permit and require new Use Permit application and approval.
3. The number of horses kept on the subject property may not exceed six at one time.
4. All parking for equestrian classes must be on site and out of the private roadway.

VICE CHAIRMAN FLANDERS said he recalls the original application and believed it to be a good use for the property but said he is concerned that it has gone from a non-profit organization to a commercial business. In response to a question from the Vice Chairman, Ms. Bailey confirmed that a request for 18 to 24 horses came from the applicant.

TERRI CHAMBERS, 1991 S. Tumbleweed Lane, said that the business has gone from 6 to 12 and finally 14 youths and that is why the number of horses has increased. She clarified that they remain a non-profit organization and donate their time. She added that they were aware of concerns regarding traffic but said from Germann to the complainant's house is only 345 feet, they pass only one house, hers, to get to the property. She also commented on dust issues and noted that they do not water the arena with well water, they use a water truck. She discussed the clean condition of the premises and the care the horses receive. She stated the opinion that the area does not become congested. She added that her children also ride and participate in competitions and six of their own horses are located on site. She noted that they are a different caliber horse than those used by the youths.

The Vice Chairman asked whether they boarded horses on the property and Ms. Chambers advised that they do not and a number of the 19 horses were donations. She explained that they have a number of volunteers who bring their horse trailers to the site to help move the horses when necessary. She added that the trailers are used to haul the horses out to the various competitions her children participate in.

In response to a request from Vice Chairman Flanders for a brief overview of the growth that has taken place over the years, Ms. Chambers said that through word of mouth over the years, the classes have expanded. She stated that they often work with children who have never been on a horse before and teach them safety standards, explain the various equipment and uses, and train them in grooming techniques. She added that once a year they conduct a unique horse show at the Gilbert Arena for the special needs youths and other similar organizations participate as well. She noted that they are associated with Arizona Special Olympics and, depending upon where youths are located, the organization frequently refers youths to their facility. She pointed out that they are the only organization of its kind in the east valley. She confirmed that they take care of special needs children as well as other people, including adults, who want to take riding lessons.

VICE CHAIRMAN FLANDERS said that he doesn't have a problem with the non-profit organization providing valuable services to special needs youths but riding lessons for youths and adults other than the special needs youths has pushed it, in his mind, into a commercial use. He asked how many lessons a week they gave and Ms. Chambers stated that the classes are conducted once a week on Tuesdays and people have to sign up at the City because the number of participants is capped at 14.

Discussion ensued relative to the growth that has taken place, the fact that the facility is no longer in compliance with the original Use Permit, the increase in classes and the intensity of use, the fact that limiting the number of horses will ultimately limit the class size and the applicant's intention to move to another location if the Use Permit is not approved.

Ms. Chambers said that some of the classes help pay for the cost of maintaining the horses in a quality manner. She noted that many special needs youths stop by just to visit, see the horses and watch other children and adults taking lessons.

The Vice Chairman said that the reports he read indicated that the operation was turning into a large commercial venture that is now being imposed on the neighborhood and impacting their quality of life. He agreed that a great need exists for the services they provide to the community and said he is in support of the Use Permit but just wanted to clarify what he is voting on.

COMMISSIONER POLVANI commented that the Use Permit issued in 2000 was for up to six students (children) and asked how many horses were being used. Ms. Chambers responded that discussion regarding the number of horses never came up and added that when she moved onto the property approximately 20 years ago, she had 18 or 20 horses. She noted that in 1972 the County did not have any limit on the number of horses allowed.

VICE CHAIRMAN FLANDERS said that had received speaker requests from Tami Wiesenhofer and Terri Chambers and asked whether anyone else in the audience wished to speak on this item.

KATHI RENNER, 6324 West Laredo, stated the opinion that the special needs kids require different horses than those used for lessons. She added that the commercial part of it doesn't exist because of the significant costs associated with feeding and maintaining the horses. She emphasized that the operation, including the commercial portion, is non-profit for the most part.

VICE CHAIRMAN FLANDERS said that when they start talking about 20+ horses, impacts on the residential area come into play and must be taken into consideration. He stated that he was not sure how to proceed and asked staff if they had any input to offer.

MR. KURTZ discussed the difficulties associated with gauging the merits of a case based on the number of horses and said that staff was attempting to measure the compatibility in that the original application in 2000 was included as a Use Permit in order to accommodate a class size of approximately 6 youths. He said that was what led up to their recommendation that the number of horses be limited to 6. He acknowledged that some horses might be pets, some show horses and some workhorses and stated that it is difficult to draw the line. He recommended that the Commissioners look at the issue in terms of the intensity of the development and noted that what they have seen and heard is that the character of the operation has changed. He added that it has gone from a Wednesday and Saturday operation with a small class size to something much broader. He said they previously heard that classes were being conducted on Tuesdays, Thursdays and Saturdays. He emphasized that staff attempted to measure compatibility with the surrounding area and said the operation has evolved since the last review. He pointed out that staff recommended a one year Use Permit and stated the opinion that limiting the time would be a prudent move in order to test the operation's compatibility as time goes on. He added that perhaps additional stipulations will be developed, such as "all operations need to occur on the property," and "there cannot be any vehicles parking out on the street," "limitation of class times," etc. He also noted that a unique situation exists in that the horses pasture on various properties and stated the opinion that perhaps limiting the number of horses is not the right path to follow.

MR. KURTZ said that perhaps a continuance is in order to allow residents who said they would attend the meeting but were unable to an additional opportunity to participate in the process.

Discussion ensued relative to opposition that has been expressed and the importance of addressing residents' concerns while maintaining compatibility in the area.

DEBORAH LUDINGTON, 1995 South Tumbleweed Lane, said she is a neighbor of Terri Chambers and Tammy. She spoke in support of the operation and said it has helped a lot of children. She added that the lessons learned go far beyond riding instruction and stressed the importance of maintaining some rural atmosphere. She stated that she does not view the venture as a commercial venture and said everyone helps out whenever they can. She reiterated comments regarding expenses and said veterinary bills alone are extremely expensive.

VICE CHAIRMAN FLANDERS thanked the speakers for their comments.

COMMISSIONER IRBY requested that the applicant respond to additional questions and Ms. Chambers approached the podium. In response to questions from the Commissioner regarding the maximum number of horses needed at any one time, she stated 14. He noted that even if the Commission approves this, they will still be in violation of the Use Permit. Ms. Chambers pointed out that they originally requested 18 to 24 horses. The Commissioner asked why so many horse trailers are on site and Ms. Chambers said that they are used to haul horses out to various competitions (once a month). She added that she owns a couple of the trailers and the volunteers provide others. She noted that sometimes they leave them on site and sometimes they do not.

COMMISSIONER ANDERSON commented on the use of a number of pastures and said it seemed like a good idea to him. He said to him an issue to be addressed is how many students should be allowed on the parcel at one time and how many horses per pasture.

Discussion ensued relative to the fact that the average class size is 8 to 10 kids and max at 14 because that is an appropriate amount for the size of the arena. He said he agrees with Stipulation #3 relative to allowing six horses on site but said another stipulation regarding the number of horses during class hours shall not exceed 14 means that they would have to move the horses to another location when there are no more classes. He stated that that would accommodate them from 6 up to 14, enough horses for the youths. He added that during off hours, there would be no more than 6 horses on site.

MS. CHAMBERS said that she requested more horses because of her children's own horses (6) which cannot be used by the special needs youths as well as her horse and her husband's.

VICE CHAIRMAN FLANDERS indicated support for the added stipulation allowing 14 horses on site during class time.

COMMISSIONER POLVANI asked how many horses they typically use and Ms. Chambers said that although attendance can vary, 14 are utilized at times.

COMMISSIONER IRBY noted that the class size maxes out at 14 and asked how many horses were needed to house and board on site on a daily basis. Ms. Chambers said she would like to

keep 12 there and has the pens to facilitate them. She added that on a day-to-day basis about 12 horses are housed.

COMMISSIONER IRBY said that he didn't have a problem with the use, it is a matter of the intensity and a one-year stipulation that states they will try out a maximum number of horses on site and limit class size not to exceed 14 or so, they can monitor the situation and see whether it becomes an issue. He added that perhaps the next time the issue comes up, the new 600 foot notification requirement will be in effect and they may obtain important input from some of the outside neighbors feel about the traffic going in and out of there.

COMMISSIONER GULSVIG asked how many horses the applicant currently has on her property and she said they have approximately 20 horses on the property, 14 of which are used for the classes. She noted that the figure does not include her children's horses.

COMMISSIONER GULSVIG commented that if they proceed with the horse limitation, he doesn't have a problem with the benefit that they are providing children but said he has a problem with so many horses being on the acreage. He pointed out that the applicant has 14 horses plus an additional 8 horses. Ms. Chambers commented that she has 19 horses, she lost one that morning. The Commissioner said she is fortunate that her neighbors have allowed her to use their pastures and she agreed. He asked how many pens were located on the property and Ms. Chambers stated 12 and 4 holding pens in the back.

VICE CHAIRMAN FLANDERS said he would like to talk more about the hours of operation and Ms. Chambers noted that the classes last till 8 p.m. one day a week, on a Tuesday night (6 p.m. to 8 p.m.) She reported that during the first class a lot of parents stay for about a half hour and leave but as the class's progress, parents drop their children off and leave. She said she makes sure that they park within her property line, inside her driveway. She added that at any one time approximately 8 cars are parked but the numbers vary and her circle drive accommodates the vehicles. She said that by 8 p.m., the horses are all ready to be put down for the night and the cars are gone by 8:15 p.m. She stated that they may conduct a second class on Thursday night for one hour. She confirmed that this has been the norm and the class would run from 6 p.m. to 7 p.m.

COMMISSIONER GULSVIG said that he would like to change the terminology on Stipulation #3 to state that the number of horses kept on the subject property may not exceed 14 horses on site during class time. He agreed that a one-year Use Permit should be issued and staff can monitor this situation, the number of horses that should be allowed and the appropriateness of the use.

Discussion ensued regarding the possibility of allowing their personal horses to remain on site during off hours and perhaps providing an additional stipulation that the number of horses on site at class time shall not exceed 14 max.

MR. KURTZ said that this property was annexed into the City and enjoyed horse rights before the annexation. He noted that there is not a good track evidence of how many horses were there the day they annexed versus the day after they annexed and the City has generally been inclined to accept property owners' testimony regarding the number of horses they had at the time of annexation. He stated that staff is willing to proceed in that manner and solicit testimony as to the number of horses on site at the time of annexation and those properties could be granted

"grandfathered rights." He added that if they can obtain information as to the number of horses on the property at the time of the applicant's application, they can go from there and use that number as the allowed number of horses as a grandfathered right and then talk about any horses over and above that to accommodate the classes.

COMMISSIONER POLVANI commented that she likes the idea of limiting the number of horses and the class sizes and added that she would also like to make sure that they stipulate some of the issues that have been a concern to the neighborhood such as dust control. It was determined that Stipulation #5 be added which states that "the property shall practice dust control measures." In addition, #3 will be revised to say "may not exceed 14 horses on site during class time." Also, Stipulation #6 will outline the class days and hours (Tuesdays 6 p.m. to 8 p.m. and Thursday from 6 p.m. to 7 p.m.).

In response to a request from the Vice Chairman, Ms. Lumpkin outlined the added/amended stipulations.

Staff will endeavor to determine how many horses were on site when the applicant's property was annexed into the City by soliciting input from the various property owners. It was suggested that staff obtain written testimony so that there will be something on file pertaining to this matter.

VICE CHAIRMAN FLANDERS complimented the applicants on their hard work and contribution to the community and emphasized the importance of maintaining current growth in order to be good neighbors to the residents around them.

COMMISSIONER IRBY MOVED to **APPROVE** **UP04-0026 VALLEY SILVER BULLET EQUESTRIANS** and **COMMISSIONEER GULSVIG SECONDED** the motion, which **CARRIED UNANIMOUSLY** by those present (6 to 0).

6. DIRECTOR'S REPORT

There was nothing to report on at this time. COMMISSIONER GULSVIG was provided an overview of the purpose of this agenda item.

7. CHAIRMAN'S ANNOUNCEMENT

The next regular meeting is January 5, 2005 at 5:30 p.m. in the Council Chambers. The Vice Chairman wished everyone a great, safe holiday season and thanked staff for their outstanding efforts. He also wished Chairman Ryan and his family happy holidays and said he was glad to hear he was out of the hospital and feeling good.

8. ADJOURNMENT

The meeting was adjourned at 8:20 p.m.

_____
Michael Flanders, Vice Chairman

_____
Douglas A. Ballard, Secretary