



2013 Planning & Zoning Commission Minutes

Regular Meetings

January 16, 2013

February 6, 2013

February 20, 2013

March 6, 2013

March 20, 2013

April 3, 2013

April 17, 2013

May 1, 2013

May 15, 2013

June 5, 2013

June 19, 2013

July 3, 2013 Meeting Cancelled

July 17, 2013

August 7, 2013 Meeting Cancelled

August 21, 2013

September 4, 2013 Meeting Cancelled

September 18, 2013

October 2, 2013

October 16, 2013

November 6, 2013

November 20, 2013

December 4, 2013 Meeting Cancelled

December 18, 2013

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, January 16, 2013 held in the City Council Chambers, 88 E. Chicago Street.

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

Chairman Leigh Rivers
Vice Chairman Stephen Veitch
Commissioner Matthew Pridemore
Commissioner Andrew Baron
Commissioner Katy Cunningham
Commissioner Bill Donaldson
Commissioner Phil Ryan

Also present:

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

4. APPROVAL OF MINUTES
MOVED BY VICE CHAIRMAN VEITCH, seconded by COMMISSIONER PRIDEMORE to approve the minutes of the December 19, 2012 Planning Commission Hearing. The motion passed 5-0 with 2 abstentions. (Commissioners Baron and Ryan were absent for that meeting).
5. ACTION AGENDA ITEMS
CHAIRMAN RIVERS informed the audience that prior to the meeting Commission and Staff met in a Study Session to discuss each of the items on the agenda and the consent agenda will be approved by a single vote. After Staff reads the consent agenda into the record, the audience will have the opportunity to pull any of the items for discussion. There were no items pulled for action.

A. DVR12-0022/PPT12-0011 CHANDLER HEIGHTS

Approved to withdraw for the purpose of re-advertising.

Request rezoning from Agricultural to Planned Area Development along with Preliminary Development Plan and Preliminary Plat approval for a 68-lot single-family residential subdivision. The subject site is located west of the southwest corner of Chandler Heights and Gilbert Roads. **(REQUEST WITHDRAWAL FOR THE PURPOSE OF RE-ADVERTISING.)**

B. DVR12-0046 SEC ARIZONA AVE. & RIGGS RD.

Approved.

Request the establishment of initial City zoning of Neighborhood Commercial (C-1) and General Industrial (I-2) on an approximate 2.1-acre site located at the southeast corner of Arizona Avenue and Riggs Road.

Upon finding consistency with the General Plan, Staff recommends approval of the establishment of initial city zoning of C-1 and I-2 on an approximate 2.1-acre site located at the southeast corner of Arizona Avenue and Riggs Road.

C. DVR11-0037 CIRCLE K (SEC ARIZONA AVE. & RIGGS RD.)

Approved to withdraw for the purpose of re-advertising.

Request rezoning from initial City zoning of Neighborhood Commercial (C-1) and General Industrial (I-2) to Planned Area Development (PAD) for a gas station with convenience store on property located at the southeast corner of Arizona Avenue and Riggs Road.

D. DVR12-0028 CHANDLER BUSINESS CENTER

Approved.

Request rezoning from Planned Area Development (PAD) light industrial with ancillary showroom uses in Buildings A/B and retail/office in Building C to PAD light industrial, showroom, place of worship/church, and Community Commercial (C-2) zoning district uses permitted by right in Buildings A/B and C with the exception of no restaurant uses in Buildings A/B. The property is located at the northwest corner of Chandler Boulevard and Kyrene Road.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Chandler Business Center", kept on file in the City of Chandler Planning Division, in File No. DVR12-0028, except as modified by condition herein.
2. The development shall be in substantial conformance with all previous conditions adopted by Ordinance No's. 3249 and 3407, except as modified by condition herein.
3. Buildings A/B shall be allowed light industrial (I-1) uses, showroom, and C-2 uses as permitted by Zoning Code and in accordance with the parking analysis on file in case DVR12-0028; restaurant uses are not permitted in Buildings A/B.
4. **Building C shall be allowed C-2 uses as permitted by Zoning Code and in accordance with the parking analysis on file in case DVR12-0028.**

E. DVR12-0038 ORTHOPEDIC GROUP

Approved.

Request rezoning from Planned Area Development (PAD) light industrial, general office, commercial, airport uses, adult vocational education uses with a mid-rise overlay to an amended PAD zoning adding medical office and athletic field to the permitted uses along with Preliminary Development Plan (PDP) for a medical office with athletic field. The property is located east of the southeast corner of the Loop 202 Santan Freeway and Cooper Road off of Yeager Drive.

Rezoning

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Orthopedic Group", kept on file in the City of Chandler Planning Services Division, in File No. DVR12-0038, except as modified by condition herein.
2. The development shall be in substantial conformance with all previous conditions adopted by Ordinance No. 3673, except as modified by 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.
4. Right-of-way dedications to achieve full half-widths, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.
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 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 ORTHOPEDIC GROUP shall use treated effluent to maintain open space, common areas, and landscape tracts.

10. All structures on the property shall remain below the protective surfaces as defined in Federal Aviation Regulation Part 77 and/or in relation to limits established in FAA determined Terminal Procedures (TERPS). All construction cranes shall be installed and operated in accordance with FAA rules and regulations including notification through the filing of FAA Form 7460-1, Notice of Proposed Construction or Alteration.
11. Prior to building permit issuance for any structures the developer shall provide a DETERMINATION OF NO HAZARD TO AVIATION approval as issued by the FAA after filing an FAA Form 7460, Notice of Proposed Construction or Alteration.
12. 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.

Preliminary Development Plan

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Orthopedic Group", kept on file in the City of Chandler Planning Services Division, in File No. DVR12-0038, except as modified by condition herein.
2. Approval by the Director of Transportation & Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Transportation & Development for arterial street median landscaping.
3. The landscaping shall be maintained at a level consistent with or better than at the time of planting.
4. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or association.
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.

F. DVR12-0047 WEST OF THE NWC LINDSAY & RIGGS ROADS

Approved.

Request the establishment of initial City zoning of Agricultural (AG-1) on an approximate 12.25-acre site located west of the northwest corner of Lindsay and Riggs roads.

Upon finding consistency with the General Plan, Staff recommends approval of the establishment of initial city zoning of AG-1 on an approximate 12.25-acre site located west of the northwest corner of Lindsay and Riggs roads.

G. DVR12-0048 EAST OF THE SEC MCQUEEN & WILLIS ROADS

Approved.

Request the establishment of initial City zoning of Agricultural (AG-1) on an approximate 1.6-acre site located east of the southeast corner of McQueen and Willis roads.

Upon finding consistency with the General Plan, Staff recommends approval of the establishment of initial city zoning of AG-1 on an approximate 1.6-acre site located east of the southeast corner of McQueen and Willis roads.

H. PDP12-0015 CORONA DEL SOL PLAZA

Approved.

Request Preliminary Development Plan approval to allow for additional monument sign tenant panels. The subject site is located at the southeast corner of Ray and Rural roads.

1. The monument sign's sign panels shall have an integrated or decorative cover panel until a tenant name is added to the sign.
2. Landscaping shall be in compliance with current Commercial Design Standards.
3. The applicant shall work with Staff to incorporate additional landscape materials at the base of the monument signs.
4. Monument 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. The monument signs shall be in substantial conformance with the attached site plan and sign elevation exhibits, kept on file in the City of Chandler Current Planning Division, in File PDP12-0015 CORONA DEL SOL PLAZA, except as modified by condition herein.

I. LUP12-0033 PHO VAN

Approved.

Request approval of a Use Permit to sell liquor as permitted under a Series 12 Restaurant License for on-premise consumption indoors within an existing restaurant. The property is located at 2095 W. Dobson Road, # 3, at the northeast corner of Dobson and Warner Roads.

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. The Use Permit is non-transferable to any other location.
3. Expansion or modification beyond the approved exhibits (Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.

J. LUP12-0034 SIBLEY'S WEST

Approved.

Request Use Permit extension approval to allow liquor sales as permitted under a Series 10 Beer & Wine Store License for off-premise consumption only. The property is located at 72 S. San Marcos Place, west of Arizona Avenue and south of Buffalo Street in Historic Downtown Chandler.

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

K. ZUP12-0030 DESERT VIKING OFFICE

Approved.

Request Use Permit approval to allow for the conversion of a residential home into a commercial business, a general office use. The subject site is located at 542 W. Chandler Blvd.

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. Expansion or modification beyond the approved Development Booklet shall void the Use Permit and require new Use Permit application and approval by the City of Chandler.
3. The Use Permit is non-transferable to any other property.
4. Increases in on-site employment over that represented, seven (7), or the expansion of the home to provide additional office space, shall require a new Use Permit application and approval by the City of Chandler.
5. The property shall be maintained in a clean and orderly manner.
6. The landscaping shall be maintained at a level consistent with or better than at the time of planting in accordance with City approved construction plans.

L. ZUP12-0031 CROWN CASTLE COLLOCATION

Approved.

Request approval of a Use Permit to allow a collocation of nine (9) antennas and a ten (10) foot height addition to an existing Wireless Communication Facility on property zoned Planned Area Development (PAD). The property is located east of the southeast corner of Chandler Heights Road and Arizona Avenue.

1. Development shall be in substantial conformance with the approved exhibits except as modified by conditions herein. Expansion or modification of the use beyond the approved exhibits shall require a new Use Permit application and approval.
2. Further screening shall be required along with the wrought iron fencing to visually conceal the equipment inside.

M. ZUP12-0038 REACT DEFENSE

Approved.

Request Use Permit approval to allow adult education and physical fitness/training type uses in Building 4 of Westech Corporate Center. The property is located at the southeast corner of Arizona Avenue and Palomino Drive, north of Warner Road.

1. Development shall be in substantial conformance with the exhibits and representations contained within this memo and in the Use Permit case, entitled "REACT DEFENSE" kept on file in the City of Chandler Current Planning Division, in file number ZUP12-0038 except as modified by condition herein.
2. Compliance with original conditions adopted by the City Council as Ordinance No. 3812 in case DVR06-0005, except as modified by condition herein.
3. Adult education and physical fitness/training uses are permitted in Building 4 only.

A woman from the audience had questions on Item G. She came to the podium and stated that this is basically across the street from where they live and this card on this meeting was the only notification they had received. She said she was just concerned that it is on the consent agenda and that they don't have any other information on it. She asked if there was going to be a public meeting or a neighborhood meeting or anything like that where they could get more information from?

MR. SWANSON, City Planner, stated this is just the initial process. This is kind of a follow-up to the annexation process. This is really the next step to get it to a zoning designation in the city similar to what was in the County. There will be a follow-up rezoning for the land for a development which will entail a neighborhood meeting and then the 2 public hearings and they will certainly be notified. There will be a sign put out on the site; a 4 by 8 orange sign. They will also receive notification for a neighborhood meeting and then also a similar card like they received. He said if she would like to wait until after the meeting, he will get her number. He will be the point of contact for this.

She asked if it will affect the remaining parcels of land across the south side of Willis Road.

Mr. Swanson said it will not do anything addressing rezoning of that property. Certainly, it will be in proximity to it so there is that kind of natural way that it will affect that but it is not going to change any of their zoning designation or land use privileges or anything like that.

She said so right now there is no specific use identified to go on this piece of property for the rezoning. Mr. Swanson replied not for tonight. There will be a follow up rezoning for a future development but based on statute they can't really discuss that tonight because the Commission hasn't seen it, neighbors haven't seen it, so really what this is for tonight is what the land use was in the County to what it is in the city, which would be agricultural.

MR. KEVIN MAYO, PLANNING stated he had a little bit more information. When they annex the property from the County in they can't bring with it the zoning that the County had on it. It comes in basically without zoning and they have a certain amount of a time frame that they have to establish an equivalent city zoning no more intense than what was in the County. The County was R-43 and so their closest zoning designation in the City is AG-1. The property has been annexed by the City of Chandler through a City Council Ordinance and now they have to by State Statute follow-up with the establishment of a base zoning consistent with what was in the County. If they don't and there is a time frame of six months and if they don't take action within 6 months, the property doesn't have any zoning which means they can't do anything, it means they can do everything. So they go through this process establishing initial city zoning and then there is a separate rezoning process that they are in and they will be notified and a part of it to rezone from AG-1 to whatever their future use is going be.

She asked Mr. Swanson if she can get his phone number off the website. Mr. Swanson said it should be on the card as well. It should be his direct number. She said she will give him a call.

CHAIRMAN RIVERS thanked her and the Staff for taking care of these problems.

MOVED BY VICE CHAIRMAN VEITCH, seconded by **COMMISSIONER BARON** to approve the Consent Agenda with the amended stipulation as read into the record by Staff. The Consent Agenda passed unanimously 7-0.

6. DIRECTOR'S REPORT

Mr. Mayo, Planning Manager, said there was nothing to report this evening and wished them a happy New Year.

7. CHAIRMAN'S ANNOUNCEMENTS

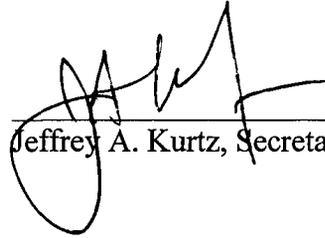
CHAIRMAN RIVERS said the next regular meeting is February 6, 2013 at 5:30 p.m. in the Council Chambers at the Chandler City Hall, 88 East Chicago Street, Chandler, Arizona.

8. ADJOURNMENT

The meeting was adjourned at 5:48 p.m.



Leigh Rivers, Chairman



Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, February 6, 2013 held in the City Council Chambers, 88 E. Chicago Street.

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

Chairman Leigh Rivers
Commissioner Matthew Pridemore
Commissioner Andrew Baron
Commissioner Katy Cunningham
Commissioner Bill Donaldson
Commissioner Phil Ryan

Also present:

Mr. Kevin Mayo, Planning Manager
Ms. Jodie Novak, Senior City Planner
Mr. David de la Torre, Principal Planner
Mr. Erik Swanson, City Planner
Ms. Jessica Sarkissian, City Planner
Mr. Glenn Brockman, Assistant City Attorney
Ms. Joyce Radatz, Clerk

Absent and excused:

Vice Chairman Stephen Veitch

4. APPROVAL OF MINUTES
MOVED BY COMMISSIONER PRIDEMORE, seconded by COMMISSIONER CUNNINGHAM to approve the minutes of the January 16, 2013 Planning Commission Hearing. The motion passed 6-0 (Vice Chairman Veitch was absent).
5. ACTION AGENDA ITEMS
CHAIRMAN RIVERS informed the audience that prior to the meeting Commission and Staff met in a Study Session to discuss each of the items on the agenda and the consent agenda will be approved by a single vote. After Staff reads the consent agenda into the record, the audience will have the opportunity to pull any of the items for discussion. There were no items pulled for action.

A. DVR11-0037 CIRCLE K (SEC ARIZONA AVE. & RIGGS RD.)

Approved.

Request rezoning from initial City zoning of Neighborhood Commercial (C-1) and General Industrial (I-2) to Planned Area Development (PAD) for a gas station with convenience store with Preliminary Development Plan (PDP) on property located at the southeast corner of Arizona Avenue and Riggs Road.

Rezoning

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "CIRCLE K STORE", kept on file in the City of Chandler Planning Division, in File No. DVR11-0037, 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. 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. Approval by the Director of Transportation & Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Transportation & Development for arterial street median landscaping.
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 Circle K development shall use treated effluent to maintain open space, common areas, and landscape tracts.

Preliminary Development Plan

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "CIRCLE K STORE", kept on file in the City of Chandler Planning Services Division, in File No. DVR11-0037, except as modified by condition herein.
2. The landscaping shall be maintained at a level consistent with or better than at the time of planting.
3. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or property owners' association.
4. The site shall be maintained in a clean and orderly manner.
5. Sign packages, including free-standing signs as well as wall-mounted signs, shall be designed in coordination with landscape plans, planting materials, storm water retention requirements, and utility pedestals, so as not to create problems with sign visibility or prompt the removal of required landscape materials.
6. Raceway signage shall be prohibited within the development.
7. Fuel tank venting shall be fully screened in a manner to be architecturally integrated with the development as represented in the Development Booklet.

B. DVR12-0027 KYRENE 202 BUSINESS PARK

Approved.

Request rezoning from Agricultural (AG-1) to Planned Area Development (PAD) for a business park, along with Preliminary Development Plan approval for building architecture and site layout on an approximate 34-acre site located at the southwest corner of Kyrene Road and Gila Springs Place.

Rezoning

1. Development shall be in substantial conformance with the attached Development Booklet, entitled "KYRENE 202 BUSINESS PARK", kept on file in the City of Chandler Planning Services Division, in File No. DVR12-0027, except as modified by condition herein. The Development Booklet provides that building layout, architecture and design for future development of individual parcels, and related onsite site layout related to such future development of individual parcels, will be reviewed and approved administratively.
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. 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 or as otherwise approved in a development agreement.
5. Unless otherwise included as part of the City's Capital Improvement Program, 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. Landscaping shall be in compliance with current Commercial Design Standards.
7. The landscaping shall be maintained at a level consistent with or better than at the time of planting.
8. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or property owners' association.
9. Approval by the Director of Transportation and Development for landscaping (open spaces and rights-of-way), perimeter walls and arterial street median landscaping is required.
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. Right-of-way dedications of the future Frye Road extension to achieve full widths, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.
12. Future median openings shall be located and designed in compliance with City adopted design standards (Technical Design Manual # 4).

Preliminary Development Plan

1. Development shall be in substantial conformance with the attached Development Booklet, entitled "KYRENE 202 BUSINESS PARK", kept on file in the City of Chandler Planning Services Division, in File No. DVR12-0027, except as modified by condition herein. The Development Booklet provides that building layout, architecture and design for future development of individual parcels, and related onsite site layout related to such future development of individual parcels, will be reviewed and approved administratively.

C. DVR13-0003 CHANDLER FREEWAY CROSSING

Approved.

Request rezoning from Planned Area Development (PAD) for business park uses consisting of a mixture of office, manufacturing and industrial uses, to Planned Area Development (PAD) Amended to include a Mid-Rise Overlay for buildings exceeding 45-feet in height on approximately 30 acres located at the northeast corner of the Loop 101 Price and Loop 202 Santan freeways.

1. Development shall be in substantial conformance with the Development Booklet, entitled "Chandler Freeway Crossing" and kept on file in the City of Chandler Planning Division, in File No. DVR13-0003, modified by such conditions included at the time the Booklet was approved by the Chandler City Council and/or as thereafter amended, modified or supplemented by the Chandler City Council.
2. Building heights are limited to 150-feet in height.

D. PDP12-0018 STAYBRIDGE SUITES OF CHANDLER

Approved.

Request Preliminary Development Plan approval for site layout and building architecture for a hotel development on an approximate 14.5-acre site located at the northeast corner of Chandler Boulevard and McClintock Drive.

1. Future median openings shall be located and designed in compliance with City adopted design standards (Technical Design Manual # 4)
2. 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.
3. 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.
4. Development shall be in substantial conformance with the Development Booklet, entitled "Preliminary Development Plan Booklet", kept on file in the City of Chandler Planning Services Division, in File No. PDP12-0018, except as modified by condition herein.
5. Landscaping shall be in compliance with current Commercial Design Standards.
6. The site shall be maintained in a clean and orderly manner.

7. The landscaping shall be maintained at a level consistent with or better than at the time of planting.
8. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or 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. 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.
11. Prior to building permit issuance for any structures the developer shall provide a DETERMINATION OF NO HAZARD TO AVIATION approval as issued by the FAA after filing an FAA Form 7460, Notice of Proposed Construction or Alteration.
12. The developer knows and understands that the site is located nearby the Stellar Airpark and that adverse aircraft noise, odors, vibrations, and other externalities associated with the airpark are legal and should be expected to continue indefinitely.

E. LUP12-0035 THE COURTYARD ON WALL ST.

Approved.

Request Liquor Use Permit approval to sell liquor as permitted under a Series 6 Bar License for on-premise consumption indoors and within an outdoor courtyard. The property is located at 238 S. Wall St., behind the northwest corner of Arizona Avenue and Frye Road.

1. Expansion, modification, or relocation beyond the approved exhibits (Site Plan and Narrative) shall void the Use Permit and require new liquor Use Permit re-application and approval.
2. The liquor Use Permit is granted for a Series 6 (Bar License) only, and a change to any other liquor licenses shall require re-application and new liquor Use Permit approval.
3. The liquor Use Permit is non-transferable to other locations.
4. The site shall be maintained in a clean an orderly manner.
5. **Music shall be controlled so as to not unreasonably disturb area residents.**
6. **The applicant shall provide contact information for a neighborhood liaison responsible person such as the owner and/or manager to interested neighbors that will allow music and complaints to be resolved quickly and diretly.**

F. LUP12-0036 CHOP

Approved.

Request Liquor Use Permit approval to sell liquor as permitted under a Series 12 Restaurant License for on-premise consumption indoors and within an outdoor patio at an existing restaurant within the Downtown Ocotillo Commercial Complex. The property is located at 2625 W. Queen Creek Road, Suite 1, east of the southeast corner of Price and Queen Creek Roads.

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. Use Permit 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. 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).
4. The patio area shall not be enclosed from the existing pedestrian pathway until the adjacent pedestrian pathway is constructed opposite the water feature to the east.
5. The Use Permit is non-transferable to any other location.
6. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require new Liquor Use Permit application and approval.
7. No noise shall be emitted from outdoor speakers on the patios or from music occurring indoors that exceeds the general level of noise emitted by uses outside the premises of the business and further will not disturb adjacent businesses and residential areas.
8. The patio shall be maintained in a clean and orderly manner.

G. ZUP12-0017 SHEILA'S CHRISTIAN ACADEMY "MINDS IN MOTION"

Approved.

Request approval of a time extension for a Use Permit to allow a residential childcare/academic training for children business within a Planned Area Development (PAD) zoning district for single-family residential. The property is located at 2735 W. Highland Street, south of Warner Road and east of the northbound Loop 101 Price Freeway off of Coronado Street.

1. Use Permit approval for operating residential childcare shall be applicable only to the location identified with this application and shall not be transferable to any other location.
2. The Use Permit is granted for a maximum of 10 children for compensation.
3. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan, Narrative) shall require a new Use Permit application and approval.

H. ZUP12-0033 DESERT SAGE HERBS

Approved.

Request Use Permit extension approval to allow retail sales and personal services in the Planned Commercial Office (PCO) zoning district located at 1728 N. Alma School Road, the southwest corner of Alma School Road and Stottler Drive.

1. Development shall be in substantial conformance with exhibits and representations in the application packet.
2. Expansion or modification beyond the approved exhibits shall void the Use Permit and require new Use Permit application and approval.
3. The site shall be maintained in a clean and orderly manner.

CHAIRMAN RIVERS said he had one speaker card for Item B for a Mr. Crandall. He asked Mr. Crandall if he wanted that item pulled from the agenda or did he just want to comment on it? Mr. Crandall said he just wanted to comment on it. He went to the podium to speak.

MR. DON CRANDALL, 5929 W. CHICAGO ST., CHANDLER stated he lives on Chicago Street at the corner of Kyrene where the development is going in. He said their concern is not so much the development because they knew that would be developed in time. The planning of the development is inconsistent with what they already built north of there when the horse ranch went out. He is concerned with the fact that they want to put Chicago Street on through to the industrial park that most people come in off of Chandler Boulevard to get to and you add a swimming pool there and they want to put Chicago Street through. If you look at the map they have laid out and they have a light at Gila Springs which goes into a dead end street. They have a light down at Frye's which goes into the park which dead ends but yet they want to put a through street by Chicago all the way through to connect with Frye on the other side of the development without a light. Kyrene was never developed for the amount of traffic that is on there now. Chandler Boulevard has a single left turn lane and in the morning traffic backs up past the Gila Spring light and at night time it backs up past Chicago Street with people trying to get on the southbound 202. So a through street there that didn't have a light in conjunction with Frye in the evening and Gila Springs in the morning is going to cause major back-up and concerns with people trying to get out coming from the industrial park and people trying to come out of Chicago Street which you can't do in the morning or at night time in rush hour traffic anyway. You have to go around and take a bunch of side streets to get out. So their concern is with the pool there and then in the summertime all of the kids in the family development, they don't walk all the way down to Frye, cross at the light and walk back up to the pool; they cross at Chicago Street to go to the pool for the dog park there.

That is their major concern; not with the development itself but the putting through of Chicago all the way to the industrial park and he would like to see the recent study that has been done on Kyrene on the amount and flow of traffic. He noticed that when he went to work they had put a rubber counter going down towards the freeway and one on the freeway ramp going east on the 202. He doesn't know if they are just now doing the traffic study on it but a traffic study really needs to be done on Kyrene between Chandler and the freeway.

CHAIRMAN RIVERS thanked him for being here and asked Staff to address the gentleman's concerns.

ERIK SWANSON, CITY PLANNER, said he doesn't have any specific hard data on what the numbers are until their traffic department is done but right now Kyrene is roughly generating about 25,000, just shy of 26,000 trips per day. He knows they went out there because he spoke with one of their traffic managers and one of the study managers and they said they were out there recently looking at those numbers because of some concerns with the Chicago Street, Gila Springs Place and also the Frye Road light. He doesn't have his hard data yet. It is certainly something that if it gets to him, he will be more than happy to send it to him. He thinks it is important to note that whether or not this development goes in and the Frye Road comes in with

this development, it is anticipated that Frye Road will be completed within the next five years or so. It is part of a Capital Improvement project. Either the developer does it or the City does it in the long run. Unfortunately, it is going to be one of those things that's going come in to alleviate the park to the west.

Mr. Crandall said the Kyrene School District owns the property south of the park and Frye Road goes right down by the park. To him it would make more sense to go to Frye Road by going straight on across down past the park and around the reclamation center and then hook into the roads that are there. If they look at the map, they can see the park and what the school owns and it would make more sense to them because they already have a light at Frye, to widen that road down by the park and take it on around by the retention basin.

CHAIRMAN RIVERS stated it is this groups purpose to look at development and decide if it is appropriate for its location and land use. That is what they will be deciding this evening but he encouraged him to take his concerns about Frye Road and anything the City is going to do with Frye Road to the City Council. They will be taking this item to Council on February 28. He encouraged Mr. Crandall to go and give them his concerns because they have more power to do something about them. He thanked Mr. Crandall and his wife for coming.

CHAIRMAN RIVERS asked if there was anybody else in the audience that would like to have any of our agenda items pulled for a full presentation. Seeing none he looked to the dais for a motion.

COMMISSIONER RYAN stated for the record he would be abstaining from voting on Item D STAYBRIDGE SUITES OF CHANDLER as he is a consultant to the owner.

CHAIRMAN RIVERS said he wanted to make a comment on Item D STAYBRIDGE SUITES OF CHANDLER. When the development first came before the Commission he voted no against having hotel properties on this corner because of the vehicle traffic that would generate into the residential neighborhood just next door. While this hotel moved a little bit on the property in question, it still will generate traffic and the only way that the people coming out of this hotel can get to the 101 is either make an immediate U-turn on Chandler Boulevard or take a right turn on to Tyson Street and drive through a residential neighborhood to get to Hearthstone Way and back to Chandler Boulevard so that they can make a left turn at a light to get back to the 101. He is concerned about the additional out of town vehicle traffic driving through their residential neighborhood so he will be voting no on Item D.

MOVED BY COMMISSIONER PRIDEMORE, seconded by **COMMISSIONER BARON** to approve the Consent Agenda as read into the record by Staff with the additional stipulations and the one removal as noted. The Consent Agenda passed unanimously 6-0 with the exceptions noted (Vice Chairman Veitch was absent).

6. DIRECTOR'S REPORT

Mr. Mayo, Planning Manager, said there was nothing to report this evening.

7. CHAIRMAN'S ANNOUNCEMENTS

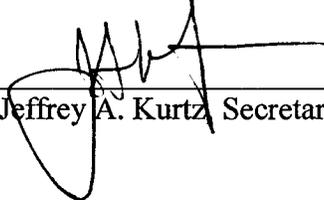
CHAIRMAN RIVERS said the next regular meeting is February 20, 2013 at 5:30 p.m. in the Council Chambers at the Chandler City Hall, 88 East Chicago Street, Chandler, Arizona.

8. ADJOURNMENT

The meeting was adjourned at 5:51 p.m.



Leigh Rivers, Chairman



Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, February 20, 2013 held in the City Council Chambers, 88 E. Chicago Street.

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

Chairman Leigh Rivers
Vice Chairman Stephen Veitch
Commissioner Bill Donaldson
Commissioner Phil Ryan

Also present:

Mr. Kevin Mayo, Planning Manager
Ms. Jodie Novak, Senior City Planner
Ms. Joyce Radatz, Clerk

Absent and excused:

Commissioner Matthew Pridemore
Commissioner Andrew Baron
Commissioner Katy Cunningham

4. APPROVAL OF MINUTES
MOVED BY COMMISSIONER DONALDSON, seconded by COMMISSIONER RYAN to approve the minutes of the February 6, 2013 Planning Commission Hearing. The motion passed 3-0 with 1 abstention (Vice Chairman Veitch was not present at that meeting). Also, Commissioners Pridemore, Baron, and Cunningham were absent from this meeting.
5. ACTION AGENDA ITEMS
CHAIRMAN RIVERS informed the audience that prior to the meeting Commission and Staff met in a Study Session to discuss each of the items on the agenda and the consent agenda will be approved by a single vote. After Staff reads the consent agenda into the record, the audience will have the opportunity to pull any of the items for discussion. There were no items pulled for action.

A. PDP12-0016 FULTON RANCH PROMENADE

Approved.

Request Preliminary Development Plan (PDP) approval to amend the existing comprehensive sign package and paint color palette for an existing retail shopping center located at the northeast corner of Alma School Road and Chandler Heights Road.

1. The monument signs shall be in substantial conformance with Exhibit A, Development Booklet, entitled "The Promenade at Fulton Ranch", kept on file in the City of Chandler Planning Services Division, in File No. PDP12-0016, except as modified by condition herein.
2. Compliance with original conditions adopted by the City Council as Ordinance No. 3560 in case DVR03-0044, except as modified by condition herein.
3. All signage shall be consistent with the signage contained within the attached exhibits with regards to sign type, quality, and quantity. Any deviations shall require separate Preliminary Development Plan approval.

B. PDP12-0020/PPT12-0018 LAYTON LAKES PARCEL 22

Approved.

Request Preliminary Development Plan (PDP) approval amending the subdivision layout, with Preliminary Plat (PPT) approval on approximately 44.5 acres located south and east of the southeast corner of Gilbert and Queen Creek roads.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "LAYTON LAKES PARCEL 22" kept on file in the City of Chandler Planning Services Division, in File No. PDP12-0020, except as modified by condition herein
2. Compliance with the original stipulations adopted by the City Council as Ordinance 3250, case DVR00-0025 LAYTON LAKES, except as modified by condition herein.
3. Compliance with the original stipulations adopted by the City Council as case PDP03-0038 LAYTON LAKES, except as modified by condition herein.
4. All homes built on corner lots within the residential subdivision shall be single-story.
5. The same elevation shall not be built side-by-side or directly across the street from one another.
6. Lots 2-13, and 18-31 shall have a rear yard setback of 45-feet.

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

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

MOVED BY VICE CHAIRMAN VEITCH, seconded by **COMMISSIONER DONALDSON** to approve the Consent Agenda as read into the record by Staff. The Consent Agenda passed unanimously 4-0 (Commissioners Pridemore, Baron and Cunningham were absent).

6. DIRECTOR'S REPORT

Mr. Mayo, Planning Manager, said there was nothing to report this evening.

7. CHAIRMAN'S ANNOUNCEMENTS

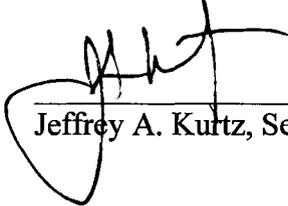
CHAIRMAN RIVERS said the next regular meeting is March 6, 2013 at 5:30 p.m. in the Council Chambers at the Chandler City Hall, 88 East Chicago Street, Chandler, Arizona.

8. ADJOURNMENT

The meeting was adjourned at 5:33 p.m.



Leigh Rivers, Chairman



Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, March 6, 2013 held in the City Council Chambers, 88 E. Chicago Street.

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

Chairman Leigh Rivers
Vice Chairman Stephen Veitch
Commissioner Matthew Pridemore
Commissioner Bill Donaldson
Commissioner Phil Ryan

Also present:

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

Absent and excused:

Commissioner Andrew Baron
Commissioner Katy Cunningham

4. APPROVAL OF MINUTES
MOVED BY VICE CHAIRMAN VEITCH, seconded by COMMISSIONER DONALDSON to approve the minutes of the February 20, 2013 Planning Commission Hearing. The motion passed unanimously 4-0 with 1 abstention from Commissioner Pridemore as he was not present at that meeting. Also, Commissioners Baron and Cunningham were absent from this meeting.
5. ACTION AGENDA ITEMS
CHAIRMAN RIVERS informed the audience that prior to the meeting Commission and Staff met in a Study Session to discuss each of the items on the agenda and the consent agenda will be approved by a single vote. After Staff reads the consent agenda into the record, the audience will have the opportunity to pull any of the items for discussion. There were no items pulled for action.

A. APL12-0003 SOUTHSORE AREA PLAN AMENDMENT/DVR12-0013/PPT12-0007 SOUTHSORE VILLAGE

Approved.

Request an Area Plan amendment from Medium Density Residential to Low Density Residential, and Rezoning from Planned Area Development (PAD) medium density residential to PAD low density residential for a single-family residential subdivision with Preliminary Development Plan (PDP) and Preliminary Plat (PPT) approval for subdivision layout and housing product on approximately 45 acres located north and east of the northeast corner of Arizona Avenue and Chandler Heights Road.

Area Plan

Planning Staff, upon finding consistency with the General Plan, recommends approval of the Area Plan amendment.

Rezoning

Planning Staff, upon finding consistency with the General Plan and Southeast Chandler Area Plan, recommends approval of the Rezoning subject to the following conditions:

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "SOUTHSORE VILLAGE", kept on file in the City of Chandler Planning Services Division, in File No. DVR12-0013, 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. Future median openings shall be located and designed in compliance with City adopted design standards (Technical Design Manual # 4).
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. 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. Approval by the Director of Transportation & Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Transportation & Development for arterial street median landscaping.

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. 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 existing railroad tracks and railroad right-of-way that may cause adverse noise, odors, and other externalities. The "Public Subdivision Report", "Purchase Contracts", CC&R's, and the individual lot property deeds shall include a disclosure statement outlining that the site is adjacent to or nearby an existing railroad track and railroad right-of-way, and the disclosure shall state that such uses are legal and should be expected to continue indefinitely. 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.
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. The homebuilder shall post a copy of the City Facilities map in the sales office showing the location of future and existing City facilities.
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 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 SOUTHSORE VILLAGE

development shall use treated effluent to maintain open space, common areas, and landscape tracts.

Preliminary Development Plan

Planning Staff, upon finding consistency with the General Plan, recommends approval of the Preliminary Development Plan request subject to the following conditions:

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "SOUTHSHORE VILLAGE", kept on file in the City of Chandler Planning Division, in File No. DVR12-0013, except as modified by condition herein.
2. The landscaping shall be maintained at a level consistent with or better than at the time of planting.
3. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or association.
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. The tot lot shall be a minimum of 20 total play stations.
6. The side yard building setbacks shall be a minimum of 5 feet and 10 feet.
7. No more than two identical side-by-side roof slopes should be constructed along arterial or collector streets or public open space.
8. All homes built on corner lots within the residential subdivision shall be single-story or a combination of one- and two-story with the one-story portion on the street side.
9. The same elevation shall not be built side-by-side or directly across the street from one another.
10. For lots adjacent to an arterial street, two-story homes are limited to every third lot, with no more than two, two-story homes built side-by-side.

Preliminary Plat

Planning Staff, upon finding consistency with the General Plan, recommends approval of the Preliminary Plat request subject to the following condition:

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

B. DVR12-0005 MAMMOTH PROFESSIONAL BUILDING

Approved.

Request rezoning from Planned Area Development (PAD) general office to PAD general office and medical office for an existing building. The site is approximately 4 acres and located at the northwest corner of Price Road and Willis Road.

Rezoning

Planning Staff, upon finding consistency with the General Plan and Chandler Airpark Area Plan, recommends approval of the Rezoning subject to the following conditions:

1. Development shall be in substantial conformance with the representations and exhibits (narrative, parking/tenant list) kept on file in the City of Chandler Planning Services

Division, in File No. DVR12-0005 MAMMOTH PROFESSIONAL BUILDING, except as modified by condition herein.

2. Compliance with original conditions adopted by the City Council as Ordinance No. 3777 in case DVR05-0034, except as modified by condition herein.
3. Medical office uses are limited to those requested; Psychiatrist, Psychologist, Counselor/Therapist.
4. No more than a maximum of 3,800 square feet in building area shall be permitted for medical office and any additional medical office users as permitted in Condition No. 3 shall be reviewed by Staff with the submittal of an updated parking analysis. A separate Preliminary Development Plan shall be required if parking cannot be provided.
5. All existing and future tenants in the building shall submit for Certificate of Occupancy and/or building permits requiring a City building inspection as well as filing for a City business license.

C. DVR12-0034/PPT12-0019 SAN VALENCIA

Approved.

Request rezoning from Agricultural District (AG-1) to Planned Area Development (PAD) multi-family residential for a multi-family apartment community with Preliminary Development Plan (PDP) and Preliminary Plat (PPT) approval for site and building design on approximately 32 acres located at the northeast corner of Germann Road and Oxford Lane; east of McQueen Road and west of the Consolidated Paseo Canal.

Rezoning

Planning Staff, upon finding consistency with the General Plan and Chandler Airpark Area Plan, recommends approval of the Rezoning subject to the following conditions:

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "SAN VALENCIA", kept on file in the City of Chandler Planning Services Division, in File No. DVR12-0034, 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. 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. Approval by the Director of Transportation & Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Transportation & Development 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 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 SAN VALENCIA development shall use treated effluent to maintain open space, common areas, and landscape tracts.

10. The development shall dedicate a 10-foot wide landscape easement along the Paseo Canal.
11. In the event the multi-family residential is platted to allow unit ownership, prior to the time of making any lot reservations or subsequent sales agreements, the subdivider/homebuilder/developer shall provide a written disclosure statement, for the signature of each buyer, 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 and other externalities. This document signed by the homebuyer shall be recorded with

Maricopa County Records Office upon sale of the property. The "Public Subdivision Report", "Purchase Contracts", CC&R's, and the individual lot/unit property deeds shall include a disclosure statement outlining that the site is adjacent to or nearby an existing municipal airport, and the disclosure shall state that such uses are legal and should be expected to continue indefinitely. This responsibility for notice rests with the subdivider/homebuilder/developer and shall not be construed as an absolute guarantee by the City of Chandler for receiving such notice.

12. All structures on the property shall remain below the protective surfaces as defined in Federal Aviation Regulation Part 77 and/or in relation to limits established in FAA determined Terminal Procedures (TERPS). All construction cranes shall be installed and operated in accordance with FAA rules and regulations including notification through the filing of FAA Form 7460-1, Notice of Proposed Construction or Alteration.
13. Prior to building permit issuance for any structures the developer shall provide a DETERMINATION OF NO HAZARD TO AVIATION approval as issued by the FAA after filing an FAA Form 7460, Notice of Proposed Construction or Alteration.
14. 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.
15. All apartment 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.
 1. In the event the residential component is platted to allow unit ownership, 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 Records 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 or adjacent to 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.”

Preliminary Development Plan

Planning Staff, upon finding consistency with the General Plan, recommends approval of the Preliminary Development Plan request subject to the following conditions:

- 1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled “SAN VALENCIA”, kept on file in the City of Chandler Planning Services Division, in File No. DVR12-0034, except as modified by condition herein.
- 2. The landscaping shall be maintained at a level consistent with or better than at the time of planting.
- 3. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or association.
- 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. The parking space canopies shall incorporate building materials, forms, and colors to match the development.

Preliminary Plat

Planning Staff, upon finding consistency with the General Plan, recommends approval of the Preliminary Plat request subject to the following condition:

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

CHAIRMAN RIVERS asked if anyone in the audience would like to have one of these items pulled for a full presentation or comments. There was one speaker who was concerned with Item C. He said he just wanted to make a comment.

SCOTT CLEMEN, 1298 E. THOMPSON WAY, CHANDLER, stated he was a realtor and has been the Vice President of the La Paloma HOA since the builders turned it over to them in 2006. He and his colleagues have not given their support for this development or for the vacation of the Armstrong road to the north for a couple of reasons. Number one, it is his professional opinion that home values would plummet as a result of this development. With a transition to multi-family development that would engulf and almost completely surround the current single-family residences coupled with the existing medium to high-density of the single-family residences of La Paloma and using the same entry off of Germann, it would certainly limit the number of buyers that would see homes on the market as they pull into what they thought was going to be a family residential neighborhood and only to see it look like an apartment development.

The demands of the developers to vacate Armstrong Road to the north and redevelop it into landscaping and then turn over the landscape cost to them would increase their costs as a result of this development versus having it the exact way it is now. They actually do not approve the vacation of Armstrong Road to the north and are discussing with their legal counsel as to how to respond to that. The developers have asked them to sign a memorandum of understanding as to effect and they have not done so and have submitted it to their lawyers.

On the build-out of this development, the property was wanted by the Episcopal Church as they had planned to build a school. Going from a neighboring school which raises property values to being surrounded by a development of multi-family housing that takes up more than 20 acres of a more than 100 home development, is just going to encumber the residents of La Paloma, who are just now being able to come out of the dank pit and back into equity. This development occurred at the top of the real estate market and homeowners who put in a lot of equity are now starting to see their properties come into equity status. He said he put \$100,000 down into his home and he is still in that dank pit. As they come closer to being able to be in a place where they can have some equity, then seeing a development like this come along and only prove to drop that even further.

It would make a lot more sense to put a development like this to the west where they could put in a different entry way that is not shared and that they would need to provide an easement for egress to a property that is already on a main street where it would allow a little extra buffer there; coupling them with a multi-family development surrounded by a neighborhood that is the only single family residential development in the area and is already isolated. Currently the way it is it's already difficult to do a comparative market analysis because there isn't anything close to it south of the freeway. You have to go north of the freeway. It's already isolated from a real estate standpoint to put multi-family housing around it and not allow any other single-family residential development to grow up around it. It makes doing a comparative market analysis much more difficult and without that buyer agents are least likely to show those properties to their clients if they can't get a good comparative market analysis there.

He asked that they deny this request and they would much rather see something like a school, single-family residences or something with that nature. It is very attractive to those who want to

build a single-family residence community. It is not too small. Theirs is about half of the size and made for a wonderful development. He thanked the Commission for their time.

CHAIRMAN RIVERS asked Staff if they had any comments.

MR. KEVIN MAYO, PLANNING MANAGER, stated there were quite a few statements that were made and he would try to go through them.

In terms of property value, obviously they don't make comments on that. The access point off of Germann and Oxford Lane, regardless of the lane exclusion on the piece, will take access off of that public right-of-way that La Paloma takes access off of. Regardless of whether or not the church continues to maintain ownership or not or whatever their projected long term plans are, it already had a couple of things. It had its existing zoning of AG-1 and it has been agriculturally farmed for a long period of time. Then it had an Area Plan that kind of guided future land use decisions; the Special Use Commercial in the Airpark Area Plan did not indicate that the school would be there. He indicated that a church would be there. It was a different kind of 'very unique' only in that area and just south of Germann as well as land use designation that allowed for the more intense retail and intense higher density residential to be developed there. In terms of an 'anticipated school' to be built there as part of the church, even though the church may have been that property owner or not because it doesn't really matter, there is the underlying zoning of the Area Plan that would need to be abided by. The Area Plan pre-dated the development of La Paloma. It was approved he believes in 1998; La Paloma was built in 2006.

The long term traffic plan for this area has been thrown up in question. You could see that on Oxford Lane basically La Paloma built half of it and the subject property would have ultimately built the other half. There was anticipation that there was going to be a larger kind of circulating roadway network that came around the property. Just based on the way everything is laying out, that doesn't make any sense. You end up with little strips of land that become undevelopable. When La Paloma was built and they had Armstrong Way, the south half of that street dedicated at their northern end, as they have been looking at lane solutions for this piece and the property to the west, it is acknowledged that right-of-way (the half street that exists today) is not necessary. It has never been driven; it is just kind of a no man's land up there. There is a gated access point at the northwest corner of La Paloma that they would ultimately have gotten out to and then once the circulation was taken further west to the McQueen, they would have access to that. The majority of Armstrong Way is just an unnecessary piece of land. What do you do with it? The City owns it. It is a dedicated right-of-way. They have their half street. This subject property is not required to build the other half of the street. There would be no reason for the City to require dedication and construction of another half of the street that is not needed anymore. They have been working with this subject property owner and then they have been going back and working with the HOA to figure out what is the best long term solution for this. One of the suggestions that was brought up was why don't they put a cul-de-sac at the eastern end of Armstrong Way, finish building the other half and then let the apartments take access off of that. Well obviously since Armstrong doesn't go anywhere today that wouldn't be built and it would really be a no man's land again and allow for people to get behind the homes of La

Paloma and do the things people do whenever they have places to go they can't be seen. It really wasn't a good long term or short term solution to do anything with Armstrong Way other than abandon what can be abandoned and then create the cul-de-sac at that far western end that they can see in their packet that the apartment complex would eventually have secondary access to.

Armstrong Way has been something that has been long and hard thought out. It had a purpose in the past that is no longer viable based on how things are developing around it and how things are coming in. It isn't something that just the developer wants. It is really at the encouragement of the City that you don't want that kind of no man's land right-of-way being behind your house. Let's figure out the best solution for it and the conversion back to landscaping and open space was deemed the best solution for it.

In terms of the single point of access for Oxford Lane and while 500 apartments sound like a lot—Mr. Mayo said back in the day when he started in 2000 and he remembers looking at the Special Use Commercial designation and people had visions of retail centers because of the west half of the Consolidated Canal is the equestrian side, they had visions of cowboy bars where you had a hitching post and you could literally ride your horse and hitch up and go inside. Ultimately, that turned into the higher intensity retail that is also talked about in the Area Plan. You could have significantly more cars as part of that property that would also only be going out to Oxford Lane because you just cannot get a 2nd point of access on Germann. From going to any type of retail consideration to the apartment it is actually a less intense traffic pattern and much more of a bleed type. Everyone assumes that all apartment dwellers leave at the same time in the morning and come back home at the same time in the afternoon and that just isn't the case. From a traffic impact standpoint on Oxford, are they going to see more vehicles out there today? Absolutely. Today there are no vehicles but it isn't something that as they have studied it, would warrant anything other than just finishing off that public street of Oxford Lane. He said he hoped his statements answered some of the questions that were asked.

CHAIRMAN RIVERS asked if there were any questions for Staff.

COMMISSIONER PRIDEMORE said of all the items that they just heard about, personally he thinks the one at the northwest corner on Armstrong is probably the most fluid. He asked if this should move forward, do they have language built into the current stip. that there is some flexibility if it is there? If there is some give and take between property owners, can they work that out at a Staff level without having to come back here? Mr. Mayo the Planning Manager replied absolutely.

CHAIRMAN RIVERS asked if there were any additional comments. There were none. He looked for a motion for the Consent Agenda.

MOVED BY VICE CHAIRMAN VEITCH, seconded by **COMMISSIONER PRIDEMORE** to approve the Consent Agenda as read into the record by Staff. The Consent Agenda passed unanimously 5-0 (Commissioners Baron and Cunningham were absent).

CHAIRMAN RIVERS asked when this would go before City Council. Mr. Mayo replied March 28, 2013. He suggested to Mr. Clemen that he take his concerns to the City Council meeting on this date.

6. DIRECTOR'S REPORT

Mr. Mayo, Planning Manager said there was nothing to report this evening.

7. CHAIRMAN'S ANNOUNCEMENTS

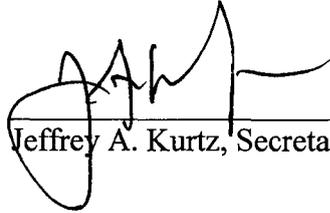
CHAIRMAN RIVERS said the next regular meeting is March 20, 2013 at 5:30 p.m. in the Council Chambers at the Chandler City Hall, 88 East Chicago Street, Chandler, Arizona.

8. ADJOURNMENT

The meeting was adjourned at 5:50 p.m.



for Leigh Rivers, Chairman



Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, March 20, 2013 held in the City Council Chambers, 88 E. Chicago Street.

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

Vice Chairman Stephen Veitch
Commissioner Matthew Pridemore
Commissioner Andrew Baron
Commissioner Katy Cunningham
Commissioner Phil Ryan

Also present:

Ms. Jodie Novak, Senior City Planner
Mr. Erik Swanson, City Planner
Ms. Jessica Sarkissian, City Planner
Glenn Brockman, Assistant City Attorney
Ms. Joyce Radatz, Clerk

Absent and excused:

Chairman Leigh Rivers
Commissioner Bill Donaldson

4. APPROVAL OF MINUTES
MOVED BY COMMISSIONER PRIDEMORE, seconded by COMMISSIONER RYAN to approve the minutes of the March 6, 2013 Planning Commission Hearing. The motion passed unanimously 3-0 with 2 abstentions (Commissioners Cunningham and Baron). Also, Chairman Rivers and Commissioner Donaldson were absent from this meeting.
5. ACTION AGENDA ITEMS
VICE CHAIRMAN VEITCH, acting as Chairman for this meeting, informed the audience that prior to the meeting Commission and Staff met in a Study Session to discuss each of the items on the agenda and the consent agenda will be approved by a single vote. After Staff reads the consent agenda into the record, the audience will have the opportunity to pull any of the items for discussion. There were 3 items pulled for action-Items A, B and G.

C. DVR13-0002 PARK PLACE

Approved.

Request rezoning from Agricultural District (AG-1) to Planned Area Development (PAD) with Preliminary Development Plan (PDP) approval for a business park on approximately 29 acres located at the southwest corner of Price and Willis roads.

Rezoning

1. Development shall be in substantial conformance with the attached Development Booklet, entitled "PARK PLACE", kept on file in the City of Chandler Planning Services Division, in File No. DVR13-0002, except as modified by condition herein. The Development Booklet provides that building layout, architecture and design for future development of individual parcels, and related onsite site layout related to such future development of individual parcels, will be reviewed and approved administratively.
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. 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 or as otherwise approved in a development agreement.
5. Unless otherwise included as part of the City's Capital Improvement Program, 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. 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 Park Place development shall use treated effluent to maintain open space, common areas, and landscape tracts.

7. The landscaping shall be maintained at a level consistent with or better than at the time of planting.
8. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or property owners' association.
9. Approval by the Director of Transportation and Development for landscaping (open spaces and rights-of-way), perimeter walls and arterial street median landscaping is required.
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. Notwithstanding any provision of the Development Booklet or of any other conditions of the Rezoning, no data center use of any type, unless ancillary and secondary to a primary use, shall be a use permitted for the property that is the subject of this Rezoning.

Preliminary Development Plan

1. Development shall be in substantial conformance with the attached Development Booklet, entitled "PARK PLACE", kept on file in the City of Chandler Planning Services Division, in File No. DVR13-0002, except as modified by condition herein. The Development Booklet provides that building layout, architecture and design for future development of individual parcels, and related onsite site layout related to such future development of individual parcels, will be reviewed and approved administratively.

D. ZUP12-0035 EVA'S MI AMORE

Approved to continue to the April 3, 2013 Planning Commission Hearing.

Request Use Permit extension approval to operate a wedding planning and bridal service office in a converted residence in the SF-8.5 Single-Family Residence zoning district. The property is located at 598 W. Chandler Blvd. **(REQUEST CONTINUANCE TO THE APRIL 3, 2013 PLANNING COMMISSION HEARING.)**

E. ZUP12-0036 PERFORMANCE AUTO SALES

Approved.

Request Use Permit extension approval to allow an automotive repair and performance modification business in the I-1 Planned Industrial zoning district. The property is located in Stellar Industrial Airpark at 4122 W. Venus Way.

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

F. ZUP13-0001 P2 PERFORMANCE PLUS

Approved.

Request Use Permit extension approval to allow a sports training facility to operate within a Planned Industrial (I-1) zoning district. The property is located at 1 N. Roosevelt Ave., Suite 2, southeast corner of Chandler Blvd. and Roosevelt Ave.

1. The Use Permit shall remain in effect for four (4) 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.
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. The Use Permit is non-transferable to another location.
4. Use Permit approval does not constitute Final Development Plan approval; compliance with all applicable codes and conditions of the City of Chandler and this Use Permit shall apply.
5. The site shall be maintained in a clean and orderly manner.
6. The building owner shall not sublet any portion of the southern suite.

COMMISSIONER RYAN stated he wanted the record to reflect that he will be abstaining on Item A as he was a consultant for that item.

MOVED BY COMMISSIONER PRIDEMORE, seconded by **COMMISSIONER BARON** to approve the Consent Agenda as read into the record by Staff. The Consent Agenda passed unanimously 5-0 (Chairman Rivers and Commissioners Donaldson were absent).

ACTION:

A. APL12-0004/DVR12-0041 202 COOPER PLACE

Approved.

Request Area Plan Amendment of the Chandler Airpark Area Plan from Community Commercial to allow for multi-family residential development, along with rezoning from Planned Area Development (PAD) for commercial and Agricultural (AG-1) to PAD for multi-family residential and Preliminary Development Plan approval for a multi-family residential development on an approximate 18.75-acre site located at the northwest corner of Cooper Road and the Loop 202.

Rezoning

1. Development shall be in substantial conformance with Exhibit 9, Development Booklet, entitled "202 COOPER PLACE", kept on file in the City of Chandler Planning Services Division, in File No. DVR12-0041, 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. 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. 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. 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 202 COOPER PLACE shall use treated effluent to maintain open space, common areas, and landscape tracts.

8. Right-of-way dedications to achieve full half-widths, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.
9. The multi-family apartment manager shall display, in a conspicuous place within the rental office, a map illustrating the location of the 202 COOPER PLACE Multi-Family Apartments in the context of the Chandler Airpark Area Plan. Such map or aerial photo shall be a minimum size of 24" x 36". Compliance with this condition shall be demonstrated by the property owner or multi-family apartment manager by submittal to the Zoning Administrator of a signed affidavit and photograph that acknowledges such map is on display prior to beginning any rental activity.
10. Prior to execution of any lease, prospective apartment tenants shall be given written disclosure in their lease and in a separately signed disclosure statement acknowledging that this apartment community is located proximate to the Chandler Municipal Airport, that an avigational easement exists on the property, and that the property is subject to aircraft noise and overflight activity. The requirement for such disclosures shall be confirmed in an Avigation Notice Covenant that runs with the land and is recorded with the Maricopa County Recorder prior to issuance of the first Building Permit for this development.
11. 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.
12. Prior to building permit issuance for any structures the developer shall provide a DETERMINATION OF NO HAZARD TO AVIATION approval as issued by the FAA after filing an FAA Form 7460, Notice of Proposed Construction or Alteration.
13. In the event the development is proposed to be subdivided to allow individual condo unit ownership, the proposed condos shall be processed in accordance with City of Chandler plat requirements which includes public hearings and, if such Condo Plat is approved and Recorded, the following stipulations shall be the responsibilities of the subdivider/homebuilder/developer and shall not be construed as a guarantee of disclosure by the City of Chandler:

a) Prior to any condo unit reservation or purchase agreement, any and all prospective condo buyers shall be given a separate disclosure statement, for their signature, fully acknowledging that this subdivision lies proximate to the Chandler Municipal 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 condo buyer shall be recorded with the Maricopa County Recorder's Office upon sale of the condo to such buyer.

b) The subdivider/homebuilder/developer shall also display, in a conspicuous place within the condo sales office, a map illustrating the location of the Condo Plat in the context of Chandler Municipal Airport. Such map or aerial photo shall be a minimum size of 24" x 36". Compliance with this condition shall be demonstrated by the subdivider/developer by submittal to the Zoning Administrator of a signed affidavit and photograph that acknowledges this map is on display prior to beginning any sales activity.

14. The aircraft noise, overflight activity and avigational easement information referenced above in "a" and "b" 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 law.
15. All leases at the 202 COOPER PLACE multi-family apartments shall provide that all questions, concerns or complaints any tenant may have about Chandler Municipal Airport of the operation of aircraft landing at, taking off from or operating at or on Chandler Municipal Airport shall be directed solely to the manager of the 202 COOPER PLACE development and not to the Chandler Municipal Airport, the City of Chandler, the FAA, any aircraft owner or any pilot. All leases shall also provide that it shall be within the sole and absolute discretion of the Manager of 202 COOPER PLACE (and not the tenant) to determine (after the Manager's due consideration of all airport related acknowledgements and disclosures that are required by these Zoning Stipulations and consideration of all information known to 202 COOPER PLACE Manager) whether or not, when and how to communicate any tenant's question, concern or complaint to the manager of the Chandler Municipal Airport.

Preliminary Development Plan

1. Development shall be in substantial conformance with Exhibit 9, Development Booklet, entitled "202 COOPER PLACE", kept on file in the City of Chandler Planning Services Division, in File No. DVR12-0041, except as modified by condition herein.
2. Approval by the Director of Transportation & Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Transportation & Development for arterial street median landscaping.
3. The landscaping shall be maintained at a level consistent with or better than at the time of planting.
4. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or association.
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.

MR. ERIK SWANSON, CITY PLANNER, stated the request is for an Area Plan Amendment of the Chandler Airpark Area Plan from Community Commercial to High-Density Residential along with Rezoning from Planned Area Development for Commercial and Agricultural to Planned Area Development for a Multi-Family Residential development as well as Preliminary Development Plan approval for site layout and building architecture. The subject site is located at the northwest corner of Cooper and the 202. It is just shy of 19 acres and it is being proposed as 332 dwelling units which equates to 17.7 dwelling units per acre. In the Study Session they discussed this a bit and said he would be more than happy to go into those specifics but he would prefer to touch on some of the process and then answer any questions they may have.

The site is offering a number of units. There are single stories, two-stories and three-story elements. The three-stories on the site plan are more centrally located and/or located at the southeast and the furthest away from residential. Additionally, the units themselves have 7 different layouts for the plans so there are a wide variety of layouts for those buildings along with building architectural elements.

When they look at the elevations, they are a bit muted compared to recent approvals. This was done intentionally. This was done in an effort to tie it into the residential communities to the north and west to kind of make it where it is a continuation of those albeit as a multi-family development. They will see on the site plan that they do offer a number of amenities that aren't typical so they have 2 pools, a number of tot lots, and barbeque Ramada's just kind of scattered throughout.

They had a neighborhood meeting. There were a few neighbors that attended that. Additionally, the applicant met with some neighbors prior to that neighborhood meeting that could not attend. Following that Staff has heard from a number of residents regarding the project. Some of them were simply concerned and had questions about the project. Some of the concerns expressed were related to primary traffic and the multi-family component and overall the apartment use as that land use. Additionally, there are some requests for deviations. Staff finds that these deviations are relatively consequential. You will see that some of it is encroaching into building setbacks to allow for their perimeter walls that is a combination of 3-foot solid and 3-foot wrought iron. Then there is a request for a different layout of their outdoor patios but overall again they are relatively inconsequential. With that he said he would be happy to answer any questions and Staff is recommending approval for both the Area Plan Amendment and the Rezoning.

VICE CHAIRMAN VEITCH asked if there were any questions for Staff. There were none. He asked the applicant if he wanted to make any comments at this point.

MIKE WITHEY, said he was there representing the applicant. He said with him was Greg Gienko, the owner of the property as well as Mike Perry, who is the architect. They worked a very long time with Staff to get here today and they are fine with the Staff's recommendation. He said he was going to be very brief and then they will hear from a couple speakers. He just

wanted to say before the speakers came up that they have dealt with years on what the best land use would be on this property. He thinks everybody knows this but he wanted to repeat that it is zoned commercial already. It could be retail, it could be a number of commercial items and they have the 27 plans for commercial development to prove it that they have had over the years. A number of things happened; primarily the most recent thing is the Mayor's Report that came out that talked about the fact that Chandler had excess retail and commercial and not enough housing. That was sort of presented to them and that their site might be one of those sites that would be appropriate for a land use change. They looked at that really carefully and considered it and ultimately concluded that yes that is probably the best result for this site and they can see from the aerial that everything north of the 202 is really residential and south of the 202 is commercial. With that dividing line it made sense to them but they don't go into this in essence down zoning of the property lightly. They wanted to make sure that they felt comfortable with it. He would say from a compatibility standpoint and from the neighbors standpoint most people they have talked to have been very, very happy about this down zoning of the property. It obviously generates for less traffic and a much better setback than commercial, much better view corridors and they think it is a much better neighbor than the back of a commercial center. So most of the folks they have talked to have been really happy about that. With that he ended his comments and said he would like to save a little bit of time depending on what comments are made.

VICE CHAIRMAN VEITCH stated he had some speaker cards which he read.

CHARLES PARKER, 1656 E. HAWKEN PLACE, said to withdraw his card.

TERI PARKER, 1656 E. HAWKEN PLACE, said to withdraw her card.

HECTOR NAVA, 2122 E. WILDHORSE DR., is opposed but did not wish to speak.

ERIC GOODMAN, 1540 S. VELERA PL., is opposed but did not wish to speak.

BRADFORD MARTZ, 1960 E. WOODSMAN PLACE, said he and his wife have been there since 2004 and lived up against this undeveloped property. He personally would like to see it develop and with the current proposition for this they are very happy with the choice that is being made. They border Longhorn which was going to be a direct view of what is going to be built there. Ultimately, a park would be fantastic for them but if they are going to develop it, they approve of the current plan as they feel aesthetically it is going to be more pleasant to look at then the back of a strip mall or in this case a gas station if it is zoned commercial. A commercial property would also have 24 hour lighting that they would have coming down on their property with their development plans, so as a directly affected neighbor or resident of the area it seems to them to be the best choice. One of the meetings that they had prior to this was their cul-de-sac and there are a number of them that he can safely say that represent about 5 houses that border up against Longhorn that would approve of this at this point.

VICE CHAIRMAN VEITCH asked if there were any questions for Mr. Martz. There were none. He asked if the applicant or Staff would like to add anything at this point. There were no additional questions or comments. He closed the floor and looked for discussion or motion from the Commission.

MOVED BY COMMISSIONER CUNNINGHAM, seconded by **COMMISSIONER PRIDEMORE** to recommend approval of APL12-0004 202 COOPER PLACE Area Plan Amendment of the Chandler Airpark Area Plan amending the plan from Community Commercial to High-Density Residential as recommended by Staff. The motion passed 4-0 with 1 abstention (Commissioner Ryan). (Chairman Rivers and Commissioner Donaldson were absent.)

MOVED BY COMMISSIONER CUNNINGHAM, seconded by **COMMISSIONER PRIDEMORE** to recommend approval of DVR12-0041 202 COOPER PLACE Rezoning from PAD for Commercial and AG-1 to PAD for Multi-Family Residential Development subject to the conditions recommended by Staff and the removal of conditions of 11 and 16. The motion passed 4-0 with 1 abstention (Commissioner Ryan). (Chairman Rivers and Commissioner Donaldson were absent.)

MOVED BY COMMISSIONER CUNNINGHAM, seconded by **COMMISSIONER PRIDEMORE** to recommend approval of DVR12-0042 202 COOPER PLACE Preliminary Development Plan approved for a multi-family residential development subject to the conditions recommended by Staff. The motion passed 4-0 with 1 abstention (Commissioner Ryan). (Chairman Rivers and Commissioner Donaldson were absent.)

COMMISSIONER RYAN stated he wanted the record to reflect that he did not participate in the vote as he was a consultant to that project.

B. DVR12-0043/PPT12-0021 JACARANDA PLACE

Approved.

Request rezoning from Agricultural (AG-1) to Planned Area Development (PAD) along with Preliminary Development Plan and Preliminary Plat approval for a single-family residential subdivision on approximately 25.55 acres located west of the northwest corner of Lindsay and Riggs roads.

Rezoning

1. Development shall be in substantial conformance with the Development Booklet, entitled "JACARANDA PLACE" and kept on file in the City of Chandler Planning Division, in File No. DVR12-0043, modified by such conditions included at the time the Booklet was approved by the Chandler City Council and/or as thereafter amended, modified or supplemented by the Chandler City Council.
2. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or homeowners' association.

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. 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. 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.
9. Approval by the Director of Transportation & Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Transportation & Development for arterial street median landscaping.
10. 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.
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 Jacaranda Place development shall use treated effluent to maintain open space, common areas, and landscape tracts.

12. 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 existing ranchette and animal privilege properties that may cause adverse noise, odors and other externalities. The "Public Subdivision Report", "Purchase Contracts", CC&R's, and the individual lot property deeds 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.

Preliminary Development Plan

1. Development shall be in substantial conformance with the Development Booklet, entitled "JACARANDA PLACE", and kept on file in the City of Chandler Planning Division, in File No. DVR12-0043, except as modified by condition herein.
2. No more than two identical side-by-side roof slopes should be constructed along arterial or collector streets or public open space.
3. The same elevation shall not be built side-by-side or directly across the street from one another.
4. All homes built on corner lots within the residential subdivision shall be single-story.
5. **No more than two, two-story homes shall built side-by-side for lot 43 through 49.**

Preliminary Plat

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

MR. ERIK SWANSON, CITY PLANNER, stated this request is rezoning from Agricultural to Planned Area Development along with Preliminary Development Plan and Preliminary Plat approval for a single-family residential subdivision. The site is located west of the northwest corner of Lindsay and Riggs and generally occupies about 25 acres. The request is for a 57 single-family lot subdivision with an average lot size of greater than 10,000 square feet. It should be noted that this is in our Southeast Chandler Area Plan of SECAP for short which designates this area for traditionally 2.5 dwellings per acre with the ability to go up to 3.5 with density incentives based on amenities. What is being proposed tonight is the density at roughly 2.3 acres so it is within that range if not a little bit less than what could potentially occur.

He said he wanted to keep things short because he knows they have another item and he knows there are a number of neighbors here so he wanted to just touch on some of the smaller elements and turn it over to the Chairman. He thinks it is important to note that there was a neighborhood meeting. At that meeting there were a number of concerns expressed by a number of the residents that did attend. Some of it pertained to the subdivision to the east, which is Shadow Ridge, a single-family subdivision. A lot of the concerns regarded 142nd Street which is along the site's east side as well as drainage issues. Some of it was requesting a wider 142nd Street, some of them expressed fire hydrants, concerns about construction traffic as improvements were made to this site, and lastly there was concern about 2-story homes along the north side of the subdivision which is adjacent to Victoria Place where he believes the residents speaking tonight are from.

There was a neighborhood meeting. Staff did not attend but were made aware of the concerns by the applicant. Following that meeting the applicant went ahead and scheduled a 2nd neighborhood meeting which Staff did attend. Unfortunately, only 1 resident attended that meeting and that resident wasn't present at the 1st meeting so we didn't have that dialogue about those concerns. Following these meetings, Staff and the applicant worked together to come up with a modified design of 142nd Street. What was specifically requested was a 29-foot wide strip of pavement for 142nd Street. Typical would be 25 feet. The applicant went ahead and agreed to that. They worked together on that design. Additionally, the concern regarding the fire hydrants; again not a typical condition or a standard requirement. However, the developer has agreed to locate one at the northeast portion of their subdivision outside of their perimeter wall. There is one at the northwest portion of the site in their track so again those fire hydrants won't directly service this subdivision but rather assisting servicing the properties to the north. Regarding some of the issues of retention and runoff all of which will be addressed as they go through the Planning process. That will be accommodated. Additionally, with the 142nd Street access, the developers are aware of the concerns so what they are looking at is options of bring traffic from the north down through the site while they improve 142nd Street. Once that is improved then they will start the improvements on the subdivision and the residents can use 142nd St. The last concern was regarding the rear setbacks for the properties adjacent to Victoria Street. The applicant has agreed to restricting or making a restriction of no more than 2 two-story homes for those lots; those are lots 43 through 49. As they are aware of, the addendum for Item B is modifying condition no. 5 which does address that. He believes the applicant has worked on a number of the concerns. He believes they are resolved however there are still some concerns by the neighbors present. He said he would be happy to answer any questions.

VICE CHAIRMAN VEITCH asked if there were any questions for Staff. He asked the applicant to come up.

BRENNAN RAY, 702 E. OSBORN stated he was there on behalf of the applicant, Ashton Woods. As Staff indicated, the request before them tonight is for PAD/PDP for both subdivision layout and architectural diversity as well as Preliminary Plat for high-quality single-family subdivision in southeast Chandler. They believe and as Staff indicated in their discussions, that they and Ashton Woods have worked hard to create a development that is consistent with the

General Plan and is the exact type of development that is contemplated by the Southeast Chandler Area Plan (SECAP) plan. As Erik indicated in his overview and as discussed at Study Session, SECAP envisions this site as traditional suburban character. SECAP envisions densities on this type of land use designation 2.5. They are below that; they are at 2.3 dwelling per acre. This is exactly the type of development as contemplated by it. When you look at the plan, Ashton Woods has taken what was once a bust development that never came out of the ground, went out and assembled 4 additional parcels. This area here is where that busted development was and went out and acquired additional parcels to get them the plan that is before them today. Certainly, we and Ashton Woods have worked closely with Planning, Engineering and the traffic department and many others to make sure this plan works for the area and is viable. Certainly, it is a plan that from their perspective and as indicated by the Staff Report and as you can see from the booklets and exhibits it exceeds the City's requirements. It exceeds the SECAP requirements; it exceeds the residential diversity standards both subdivision layout and architectural diversities. This is a high quality subdivision that they believe will be a benefit to the area. They are certainly ok with the stipulations that Staff has offered forward including modification of stipulation no. 5 under the Preliminary Development Plan and they would request this Commission's approval in accordance with Staff's recommendation.

He is happy to go into a full presentation and tell them all the neat and cool things that Ashton Woods is doing on the project and he will certainly defer to you whether or not they want him to do that. He thought it best to address some of the neighbor issues that Erik talked about and reiterate that. Assuming that is o.k. he will proceed in that fashion.

As Erik indicated, there was a neighborhood meeting that was conducted. The first neighborhood meeting was where 13 neighbors showed up and there were a variety of items that were discussed. There was a second neighborhood meeting and had only 1 neighbor show up. Since that neighborhood meeting, Ashton Woods has worked with Staff to address some of those concerns. There have been discussions. He was not at the neighborhood meetings but personally has had conversations with 2 of the residents leading up to today's meeting as well as a brief discussion with some of the residents before this hearing. As you look at the plan that is before them, the concern really focuses on what's going here but before he gets to that he would like to point out a lot of things that Ashton Woods has done coming out of that neighborhood meeting.

There are 3 areas that he wants to touch on very briefly. The first is 142nd Street. He showed where on the overhead. There currently exists no public right-of-way there now. If he understands correctly, there is an easement that runs up and down that road to allow the County Island residents north of this subdivision access when initially the requirement from the City was to construct a 25-foot wide street there. Going to the neighborhood meeting and coming out of that the neighbors wanted some additional feet to try to get it to 29 feet. Ashton Woods is willing to do that. What they will have is back-up curb; 29 feet of asphalt which is more than enough width. It is the same size as their internal private streets for 2 cars to pass by. They have done that. It is not something that is required, but additional improvements. The other thing they have talked about is that there will be temporary access. He thinks there was a considerable amount of concern over that. If he has to, he can show them the plan but the bottom line is that

they are not going to deny them access and will provide them reasonable temporary access. The other thing he thought was important to point out is the issues of these fire hydrants because he is not aware of how current fire suppression works for the County Island. The neighbors were talking about it and although it wasn't required by the City, Ashton Woods is putting in 2 fire hydrants; one on the northeast corner of the site outside of their wall, in the right of way. The other fire hydrant that is going to be proposed is on the northwest corner of the site. They are working on the details of where that is going to be but whether it is actually outside of their wall or whether there is a notch in the wall of some sort. The bottom line is there are 2 fire hydrants that will be there that the residents can access. Again, not things that were required by the City but something that Ashton Woods is doing.

The last issue that he thought was important to discuss was about the 2-story restrictions. There were concerns about the number of 2 stories backing up to the residents in the area on the north. As Erik indicated and as the revised stipulation no. 5 says, Ashton Woods listened to them and said they were willing to restrict the number of 2 stories - so no more than two 2-stories side by side. Effectively what that does is approximately 66% of those homes have the potential to be 2 stories but that doesn't necessarily mean that they will be. They were concerned about it and they have a condition in place. He showed a drawing that is intended to depict what is going on. He showed a residence that is separated by approximately 127 feet to the closest single story building. As they know, the condition of the setback requirements that they are asking for are for 30 and 20 feet which is consistent with other single-family subdivisions throughout the city. In this particular instance, were the building to be located at its farthest point on the back, which again is a 20 foot setback, that single story building would be approximately 127 feet. If it is a 2-story building that is 30 feet and for that building the closest point would be approximately 137 feet. A great amount of separation is occurring between these buildings. As he has been coming to the City and doing these things, a lot of times the condition is when you are dealing with back to back; neighbors back walls to back walls because there are concerns about privacy. Here when you look at things there is 'Victoria Street. It is not a public right-of-way in the City or County; there is a private easement agreement among the property owners that provides for 90 feet of access through there. They have a considerable amount of distance and separation that he doesn't know were necessarily creating a harm to the residents coupled with the fact that they are going ahead and restricting it as was indicated.

Mr. Ray believes they have worked diligently to address all of the concerns that have been raised and certainly going above and beyond what the City requires to do this project. He said he would be happy to take any questions and they would request their approval in accordance with Staff's recommendation and would like the opportunity to respond to any comments.

VICE CHAIRMAN VEITCH asked if there were any questions for Mr. Ray. There were none. He said he had 2 speaker cards.

DAVID WILLIAMS, 24707 S. 141ST STREET, stated the reason he came tonight is he had one concern in particular that is related to the height of the structures that are contemplated along Victoria. He believes that having 2-story units there is out of character of the neighborhood. He

is not sure who here had been in that general area but there is a rural character in that area which if they were to observe that it is pretty plain that having this denser development with these larger heights will create a disruption to the environment that is already there. He knows several of his neighbors have expressed similar concerns in that respect. That is the primary reason he came here tonight. The second reason is that he did observe in the paperwork when he came here this evening there wasn't an updated plan to underground the utilities and the irrigation canals. If that is the case, then he also had the concerns if the plan for drainage does contemplate a change to that irrigation canal.

VICE CHAIRMAN VEITCH asked Mr. Williams if he could clarify the location of the canal that he is talking about. Mr. Williams said it is immediately to the south of Victoria. It runs east and west.

Mr. Williams said he would like everyone to know that if they were to look at a map of the Shadow Ridge to the east of this area, they were able to obtain a 1-story restriction at the west end of that development adjoining the same general area. It seems like that time there was consideration of the impact that having any high houses looming over would have on the general area. He is not intimately familiar with how these situations are handled in general so he defers to the expertise of Planning and Zoning on that. He would reiterate that these houses are stacking up directly into front yards in that neighborhood.

VICE CHAIRMAN VEITCH asked if there were any questions for Mr. Williams. There were none.

JULIE CANEPA, 24811 S. 141ST STREET, said he has some of the same concerns that David Williams had. Her property actually runs adjacent to Jacaranda. When they saw the map earlier where he was showing the setbacks, his house is probably the closest to where the fence line is going to be. She has her fence line, a 50 foot easement and then essentially homes right there. She showed the beginning line of her home, the road and then block walls and 2-story homes potentially in front of them. She looked at the plan for Jacaranda Place and said they are not trying to stop progression because this happens but she has been there for 14 years and when Shadow Ridge and Mesquite Groves went up, they are only asking for 7 of these 53 parcels to be considered for single-story only. She doesn't think it was a mandate; it was just something they did to work with the residents that have been there for so long. That was one of their concerns.

David also discussed the power lines and utilities. They saw an e-mail yesterday about this company doing an abandoned parcel at the 10-foot part of their easement so she believes the setback would come even further back, closer to the ditch. It maybe would be a 60 foot separation from the front of her fence to the block wall that would be there. They are concerned about SRP getting in there, their utilities right now include above ground power lines as well as the irrigation ditch.

She said Shadow Ridge as well as T.W. Lewis and maybe this is something they could consider later is the multi-use trails that continue around through the developments for horses and for

people for jogging or walking in there. Also, they are concerned about the issue of the road. It sounded good on the width of the road but they are also concerned about the safety of the neighbors in there. Right now it is has been quiet because not a lot of people know they are in there. People come in from the outside and because it has not been City or County jurisdiction, they are going about 60 miles an hour down that road. They would like to see something for the safety in the area.

When they do the construction, she would like them to contain the trash because a lot of them do have livestock and they would like to see the livestock protected and that they are not getting trash into their arenas that could potentially kill our animals.

VICE CHAIRMAN VEITCH asked if there were any questions for Ms. Canepa. There were none. He asked Mr. Ray if wanted to respond to those points.

MR. RAY stated that in terms of the concerns that he heard, one of the first ones dealt with the character of the area and this development would somehow be out of character with the area. He would be interested to know in what capacity it is out of the character of the area because this is exactly the type of development that is contemplated by SECAP. The gentleman mentioned 2 subdivisions; Shadow Ridge to the east and Mesquite Groves farther to the west. He thinks Mesquite Groves if he is not mistaken, is located closer to Gilbert Road north of Riggs. In terms of what is contemplated on the specific area plan, they are absolutely consistent; same way with their theming. The plan talks about rural agrarian theming. If you look at the landscaping palette that has been selected as well as some of the elements in the walls and some of those features, those again reflect a rural agrarian theming. They are consistent with the character of the area.

With respect to the height of the building, the 2-story buildings will be 30 feet in height which is typical. These lots along here are deeper lots. Their typical lot is an 80 x 135. These lots along here are 80 x 145. Homeowners want the homes to be pushed towards the front and the flexibility to maybe putting an accessory structure in the back per City policy and City code. They don't feel the height is an issue certainly not out of the area.

He heard a comment about utilities and the canal and if he heard Mr. Williams correctly, he was concerned about things on the north side. That is not their property. There are no plans to improve anything that is off of their property. Their property line ends south of where that canal is and where those power lines are so they are not touching them. They are as you would expect dealing with improvements along 142nd Street and that will properly engineered so that it drains properly and that it meets City standards.

The other concerns that he wasn't aware of dealt with horse trails and equestrian facilities around here. He knows that when he looked at SECAP it talks about equestrian trails in the area. If they were to look in SECAP, it talks about an equestrian trail being located north on Cloud Road. There were certain other designated points where that equestrian trail would head south. He knows that from being out there and knowing the area, he knows there is an equestrian trail that

runs up and down Lindsay Road. So certainly there are trails out there. He doesn't believe there was ever any contemplation or discussion of a trail here in this particular location again given that the area has already been Master Planned per the SECAP as to where that would go. As he indicated and touched on, Ashton Woods has gone above and beyond what is required by Staff in terms of its plan and code and in terms of what it is required for them to do; to do a lot of good things to benefit the neighborhood. He said with that he is happy to take any questions and certainly would request approval.

VICE CHAIRMAN VEITCH asked if there were any questions for Mr. Ray.

MR. ERIK SWANSON, CITY PLANNER, said regarding the equestrian path and as Brennan alluded to regarding the SECAP, there were some specific areas. The primary point of doing those equestrian paths was to run the paths north along Lindsay Road up to Brooks Farm where there is a natural RWCD that they would then run a multi-use path along. The idea was to always run it up there to connect. In this particular instance at the north side of this County Island is Cloud Road and at that point in time there is a potential for a connection but that would come in with future development of the larger County Island pieces. So there is no real physical way to get an equestrian path for this particular subdivision to connect to Lindsay and/or to connect to the north.

COMMISSIONER RYAN made a comment that he appreciated the residences in the adjacent neighborhood to come down and voice their opinions. They always listen to those and find some middle ground for that. The one person said the subdivision to the east when they came in put in single story along their west property line. He can understand that but that subdivision is quite a bit bigger so he is thinking because of this subdivision and all of the things they have had this homebuilder do, in his mind 1 out of 3 lots isn't such a bad scenario. He is going along with that stipulation along the north property – so 1 out of 3 being 2-story. He thinks that is the biggest complaint that they have and it is understandable because they have one story and they have been looking at the San Tan Mountains for a long time but progress is progress. He doesn't think they should be asking the developer anymore on this because he thinks they have a good mix. He doesn't want to allow 2-story through the whole development other than the north property line. He thinks having that kind of mix through the whole development makes for a better development.

COMMISSIONER BARON said he would be abstaining from voting on the project as he was the consultant.

COMMISSIONER CUNNINGHAM said to Commissioner Ryan there is an addendum that indicates that it is not more than 2 2-story homes side by side, so it is not 1 out of 3 it is 2 out of 3 along the north line.

VICE CHAIRMAN VEITCH said they have seen similar situations where they have deeper than normal lots and the potential for 2 story homes backing up to the edge of the subject subdivision beyond which is a private road and beyond which are rural properties, whether they

are in the City or in the County with separations between structure to structure on the order of what they are looking at here. They have approved those situations in the past-at least 1 or 2 that he can remember. He looked to the Commission for a motion.

MOVED BY COMMISSIONER RYAN, seconded by **COMMISSIONER PRIDEMORE** to recommend approval of DVR12-0034 JACARANDA PLACE Rezoning from AG-1 to PAD subject to the conditions as recommended by Staff. The motion passed 4-0 with 1 abstention (Commissioner Baron). (Chairman Rivers and Commissioner Donaldson were absent.)

MOVED BY COMMISSIONER RYAN, seconded by **COMMISSIONER CUNNINGHAM** to recommend approval of DVR12-0034 JACARANDA PLACE Preliminary Development Plan for subdivision layout and housing product subject to the conditions as recommended by Staff and the modification of stipulation no. 5. The motion passed 4-0 with 1 abstention (Commissioner Baron). (Chairman Rivers and Commissioner Donaldson were absent.)

MOVED BY COMMISSIONER RYAN, seconded by **COMMISSIONER CUNNINGHAM** to recommend approval of the Preliminary Plat PPT12-0021 JACARANDA PLACE for a 57-lot single-family subdivision subject to the conditions recommended by Staff. The motion passed 4-0 with 1 abstention (Commissioner Baron). (Chairman Rivers and Commissioner Donaldson were absent.)

VICE CHAIRMAN VEITCH said this item will be going to the April 11 City Council meeting.

G. ZUP13-0002 NORTH PRICE STABLES

Approved.

Request Use Permit extension approval to allow horse boarding for up to 22 horses on property zoned Agricultural (AG-1). The property is located at 2885 N. Price Road, approximately 900 feet south of Elliot Road.

1. Substantial conformance with approved exhibits (Site Plan, Narrative) except as modified by condition herein. 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. The number of horses shall be limited to 22.
4. Riding activities shall be limited to a maximum of three days per week.
5. Riding activities shall cease by 9:00 p.m. each night.
6. The site shall be maintained in a clean and orderly manner.
7. The riding area shall be watered down prior to riding activities.
8. The Use Permit shall remain in effect for three (3) years from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.
9. The property shall remain in compliance with any applicable Maricopa County Air Quality Department regulations.

MS. JESSICA SARKISSIAN, CITY PLANNER, stated this request is located on a 3.86 acre property at 2885 N. Price Road, west side of Price Road and south of Elliot. To the north is Marlboro Estates single family PAD, to the south is an AG-1 Agricultural with an existing house on it. To the east are the County Rural RU-43 single-family residential homes and to the west is the 101 Freeway.

According to historical aerials the residence and the stable office building have been in existence prior to 1970. In October of 1974 the site was annexed with light zoning in from the County to the AG-1 zone. In 2009 a Use Permit was granted to allow for one year a hoarse boarding facility, and in May 2010 the Use Permit Extension was granted with conditions for a 3-year period. In that time, subject to one of the conditions, the site came into compliance with the Maricopa County Air Quality Department Regulations.

There are a total of 3 family members who reside on the property and work the facility. They facilitate the daily operations of the site from cleaning the stalls to general horsemanship. There are horse professionals done by appointment only. They are currently 5 borders that have access to the site seven days a week. Parking and driveway areas are dust proofed according to the AG-1 Zoning District requirements and the site is accessed to and from Price Road. The site has no existing complaints or violations with the Maricopa County Air Quality Department regulations. All past complaints have been investigated and closed as of March 14 of this year. The AG-1 zone allows for storage on site related to the agricultural use such as hay, wood grindings, shaving for stalls, fence materials, trailers and etc. and there is no requirement as to a minimum separation distance for this type of storage in an AG zone.

The request is to allow horse boarding for up to 22 horses within this zoning district with the same conditions previously approved for in 2010 with the extension of a 5-year time limit. Staff has conducted 3 separate, unannounced site visits, taken photos and noticed no violations occurring on the site and found the site to be in compliance with the requirements of the district and the requirements of the previously approved Use Permit.

As for neighborhood involvement, there have been advertising and mailings conducted by the City. There was also the required neighborhood meeting which took place on March 7 at the property. The leaser's, neighbors and Mr. and Mrs. England attended and e-mails from the applicant and attendees is included in your packet for your review. Staff has received 3 calls in favor of the applicant and 2 in opposition. Staff has also received 2 letters in favor as well as a letter of opposition which are all included in your packet. Staff recommends approval subject to the following conditions:

1. Substantial conformance with approved exhibits (Site Plan, Narrative) except as modified by condition herein. 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. The number of horses shall be limited to 22.

4. Riding activities shall be limited to a maximum of three days per week.
5. Riding activities shall cease by 9:00 p.m. each night.
6. The site shall be maintained in a clean and orderly manner.
7. The riding area shall be watered down prior to riding activities.
8. The Use Permit shall remain in effect for five (5) years from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.
9. The property shall remain in compliance with any applicable Maricopa County Air Quality Department regulations.

The owner and the Leaser of the property are here to answer any questions and she can answer questions they have for her.

VICE CHAIRMAN VEITCH asked if there were any questions for Staff.

COMMISSIONER PRIDEMORE asked Ms. Sarkissian if she could confirm that the stipulations that are on the case tonight are basically the same ones that they had before and they haven't had anything new. Obviously, the time duration has changed from 3 to 5 this time but basically 1 through 7 are the same as before. Correct? Ms. Sarkissian replied correct. Those are the exact same conditions that were in place for the last Use Permit.

VICE CHAIRMAN VEITCH asked the applicant, Ed Field, if he wished to speak.

MR. FIELD stated he would prefer to wait and listen to the comments and then answer them.

KATHRYN ENGLAND, 2845 N. PRICE ROAD (opposed), said she is their south neighbor. She did go out to her backyard and Brandon was putting up the horse stalls and he informed her they were going to be putting some more horse stalls up. That means she is going to have horse stalls practically at her south fence and she already has the stables at her south fence and she has a parking lot at her south fence, has a haystack at her south fence and it is not very far that she has these. She is closed in practically now. Her letter in their packet explains everything that has been going on and the only thing she hasn't mentioned is that Planning and Zoning zoned this for stables 3 years ago and this is spot zoning and she doesn't think spot zoning benefits anybody but Mr. and Mrs. Field and of course the renter. Of course they are getting the money from the renter but she doesn't think it really benefits anybody else in that neighborhood and her letter is here and it states exactly what is going on out there. She was kicked out of the community meeting that they had. Mr. Field and Irene told me to leave and told her she was nothing but a troublemaker. She is 79 years old and she has never been kicked out of anyplace but she had her first.

KENNETH ENGLAND, 2845 N. PRICE ROAD (opposed), said he is at a big disability today because on the way here his hearing aid went out so he can't hear anything they say. First thing he wanted to point out is 3 years ago when they had the Planning meeting for the neighborhood it lasted about 2 minutes. They went in and voiced an opinion on it that was against Mr. Fields. He said the meeting is over, get out of here. This year was the same thing. When he opened the

meeting, as soon as they objected to something, he said the meeting is over so get out of here. Then his wife jumped up and tried to attack his wife. Now if they call this a planned meeting he thinks it is nothing but a railroad. They came to us one day out in the back yard and said they were going to build 5 to 7 more stables right adjacent to our north fence which would have been about 40 feet from their house. That is when all this objection started. You do this for 5 years they are asking for big problems. The people that are renting it now are making an effort to make it livable. The two that were there before, one of them had probably 6 to 15 dogs and 39 horses but Mr. Field supported him all the way. He even sent him a letter. This guy wants to be your friend. The dog crap smelled so bad you could smell it clear down in the back pasture but that was all right. The next fellow came in and it was the same thing but the dogs were gone. He had a 8 x 10 x 8 foot stack of horse manure just outside his front door and their south fence. The people that enjoyed the horses on the north, they don't want anything parked against their fence; put it all over on me. He would like for those people who enjoy the horses enjoy the rest. He would like to deliver them a big stack of horse manure and dog crap and put it on their front yard and see how they enjoy it. He thinks they should not make this for 5 years. If they make it over one year and the people that are there now move out and you get an undesirable in there, it clutters it up and goes up to 22 horses, you are going to have the same thing as they had before. He thinks they should know just exactly how Mr. Fields handles this when he gets somebody in there as long as he gets his daughter that much for the rent, ignore what it is doing to the neighbors.

VICE CHAIRMAN VEITCH said he wanted to note for the record that our report does refer to a previous renter having conducted dog breeding illegally but that is not the case any longer and has not been since at least 2009.

MR. ENGLAND said he wanted to comment on one other thing. The notice that was put up in the front yard, two days after they put it up you couldn't read it. They finally came back and put up a good sign but this thing has not been notified like it should have been and all of the people within 600 feet did not receive notices.

VICE CHAIRMAN VEITCH said the request before them is for 22 horses and no dogs and has been operating for the last 3 years.

SHAWN RODRIGUES, 2885 N. PRICE ROAD (in favor), said she is a licensed professional counselor here in the State of Arizona but she is not a typical therapist. She doesn't sit in an office and do talk therapy. They utilize Equine Assisted Psychotherapy where they work in a team with horses of course; a licensed mental health professional and an equine specialist for safety. She is certified by the Equine Assisted Growth and Learning Association and International Training and Certification body. They are bound by a code of ethics for both EAGALA and she is bound by a code of ethics through her own licensing board. They offer brief experiential solution focus therapy and reach all diagnosis in populations just by virtue of working with the horses. They create a bridge. What she does there is not mounted; all of it is on the ground. She thinks that is something important that they know. It is all on the ground; hands on with the horse and no riding involved in her work. Right now she is working on a

program with the Air Force National Guard to work with the Veterans when they come back to work with PTSD and help them heal. The state sends her kids that nothing else has worked. They send them to her and say you are their last chance. She doesn't know why she is their last chance but she is. They take the horses down to Sacaton and do work on the reservation in the schools and doing methamphetamine and suicide prevention programs as well as domestic violence shelters to work with victims of domestic violence and help them heal. Children that fall on the autism spectrum on the high end and aspergers area come and find an ability to figure out how to operate in the world. They work with a lot of addictions. They work with the local intensive outpatient program that reaches all over the country. People come in from actually all over the world for that program. They offer group and individual programs for them. They offer merit badges which are mounted sometimes about once a year to the Boy Scouts and on Sunday and an Eagle Scout completed his badge by coming out and painting some of the fences. They do a lot of different types of work there. She is not running a boarding facility. As boarders have left, they have not replaced them. She has a boarder that is taking 2 horses in about a month as there property is completed and a barn is built. Right now they have 19 on the facility at this time and will be 17 hopefully about April 1st. They are a program facility with a few boarders. She is not going to kick people out. Many of their boarders do not ride. A lot of the horses are there to retire. They ride maybe once or twice a month. Some she sees once a month when they drop off their board checks and the horses are there to work in her program.

She said she wanted to address the dust issue. They no longer have 4 to 6 inches of soft dust and people riding on a regular basis. They don't need a soft cushy performance type arena any longer because they are not doing performance activities. They try to keep it between an inch and 2 inches and they do their best to try to water. Most recently a large storage tank, 2500 gallons was installed and a well pump that has allowed them to increase the pressure. It is an experiment right now but they are doing their very best to try to have everything in order as things get hot and dry and they have to have it watered every day. At this point, the rule is that if you come to ride, please let her know ½ hour ahead of time so she can get the arena ready. If they show up and it's too dry, they ask them to saddle up slowly. She is an endurance athlete and a swimmer. Of course she is going to want to control the dust. She is the one out there in it. She doesn't want to be breathing that either so they are making a very conscience effort to control that dust.

They never intended to build 5 stalls along the side. They wanted to put shade up for the horses in the summertime in the holding pens. She also will run 4 sessions in a row and she needs horses brought in from the pasture and she would like to have shade there for them. They are not erecting any structures or she would have to put in permits. She knows this. They are putting up this shade stuff that they can string up in the summertime and hook up to the poles and take it down later on.

The hay that is there has always been there. She is not sure how to address that other than it is there and as they use it, it will be gone. Back in December they started talking about an alternative food source which would be hay cubes; it takes up less room and makes less mess, less dust and the whole nine yards. So they have already considered a lot of these things that are

being brought up. As far as the 5 year permit goes, she signed a lease for 5 more years. There isn't going to be an undesirable person coming in that is an unknown. They are there and there program is thriving. They are very happy there and she doesn't want to go anywhere. Who wants to pack up and move? As far as that goes, they are 5 years committed to the facility and the program.

REBECCA MULBERRY, 2954 N. OREGON ST., #3 (in favor), stated she did not wish to speak.

HOWARD BLACK, 1769 E. COUNTRY LANE, GILBERT (opposed) stated that Mr. England asked him to come speak concerning the value of property and how the encroachment of this would affect the value of his property. After looking over the Staff's review, he finds it quite interesting that this has been going on for 3 years. As to value, Staff finds that this finding is consistent with AG-1 zoning. How do you get from 9 animals to 22 animals and call that consistent. He finds that rather difficult to understand. Having done several zoning cases in front of this Council in years past and in the Commission, if he had one of these in place and he needed this, this would be really nice to have if he had to approach them in the future and say I've got this piece of property and I want to double the amount of horses on it that your AG-1 allows. He finds this is not consistent with their zoning. He doesn't know how you do that. In the past the only zoning case he ever had that if they were a little bit over, they got denied. So he finds it interesting that they would allow this to happen because they have set a precedent that a guy like me can come back just because you allowed it to happen. It is inconsistent. It is something they need to think about before they pass this. As to value, it is pretty simple and that is what Mr. England asked me to talk about. If he had a piece of property next to me that had 9 horses on it that is one value. If he had a piece of property next to me on 4 acres that had 22 horses, you have diminished the value of his property next door. That is very consistent with why the zoning originally called for only 1 or 2 animals per 35,000 square feet. They need to look at it as a Council and as a Commission and need to consider this.

VICE CHAIRMAN VEITCH asked if Jessica could clarify the ordinance language with respect to the number of animals per unit lot area and the Use Permit provisions.

MS. SARKISSIAN replied that she is not on top of what the animal requirement is but as far as the Use Permit it says for this AG zoned district, Use Permits are allowed as determined by Council to be compatible with other uses in the area consistent with the General Plan which are consistent with the uses permitted. Under the uses permitted in an Agricultural District it does talk about riding stables and home occupations except storage sheds. A boarding facility in an agricultural zone is something you typically see and something they have seen before. It is up to the Commission and Council to determine compatibility of the Use Permit so it would be on a case-by-case basis which is why they have term limits.

MS. JODIE NOVAK, SENIOR CITY PLANNER, said in terms of his question regarding horses and how many you can have per acre, in the AG-1 zoning district it allows up to 2 horses to be kept by right per 35,000 square feet of net lot area. This property is almost 4 acres. As was

mentioned to Jessica, historically they have boarding facilities that are about 2.5 acre properties; some are 2, 2 1/2 or 3 that have already previously been approved with similar amount of horses that are still operating in our city and some are therapeutic horse boarding facilities as well so it is not an unusual request in terms of the gentleman consistent with AG-1. He is correct. AG-1 does have limit but the zoning code does that this Use Permit process is allowable and considerable for Planning Commission and City Council to allow more horses when they find that it's appropriate. That precedent has been set on this property with time limits for us to re-examine each year if they have been in conformance with what they have represented they were doing and to make sure there is no impact to neighboring areas.

VICE CHAIRMAN VEITCH said the point he was trying to get to is that while the ordinance provides a formula for by-right keeping, the ordinance also provides the opportunity to pursue a Use Permit and to exceed that where conditions are appropriate.

STEVE CHEFF, 42 S. HAMILTON PLACE, GILBERT (opposed) representing the homeowners at 2727 N. Price Road, stated they were not notified of the meeting the last week and is within the 600 feet. He is not sure as to why they are not privy to that information. They have roughly 80% of the homeowners in the association there which is just south of AG-1. They are a small homeowner's association representing 90 homes, roughly 180 to 250 people. 80% of those polled are opposed to the increase or the semi-permanency of the increase from when Tre Allagio was built. When it was built, there were 9 horses there and homeowners were buying their homes with that assumption that would be continued and now it has been raised to 22. Homeowners have seen an increase in issues related with that. They would like the Commission to reconsider the zoning and keeping it at a lower number. They are not opposed to horses being there because the horses were there prior to Tre Allagio being built but they are opposed to the increase for having 22 horses there. This is an AG-1 but they are running a business out of there and he is not sure of the legalities of a business rather than just a stable being there.

COMMISSIONER PRIDEMORE asked Mr. Cheff if he is representing the homeowners to the south of the property and also is he representing the HOA that is the development immediately south of the England's property. Is that correct? Mr. Cheff replied that is correct.

MARTY MEYERS, 2727 N. PRICE ROAD (opposed), said he is a resident in the Tre Allagio community just south of the England's. He has been a resident there since 2007. He was not informed of the neighborhood meeting. Their property is less than 600 feet, probably between 400 and 450 feet south of that particular property. He did receive a card from the City. He said he does not have a problem with the horses, the 9 horses originally established there but since the surrounding area is not the same area as it originally was when this was first built and has changed over the years, he thinks they need to have them look at whether this is appropriate for that particular area. He does not think it is the same property that was originally the AG-1 was set to establish with the nine. Now they have to the north a commercial property. They also have the Tre Allagio, which has 90 units which are Planned Area Development. Just south of there is a residential retirement facility which houses many, many elderly people and he thinks they would be impacted as well. Again, he doesn't think spot zoning for an individual or to

benefit a particular tenant that is presently there is in the interest of that general surrounding community. He thinks they might avoid doing this variance for that particular reason.

He believes that it will negatively impact property values. It is hard to say what the trend will be because they have been down for the past 4 or 5 years but if they increase the number of horses which presently are not 22 to such a higher number, he thinks that intentionally could impact all of those values which have already fallen.

Also, he noticed when reading through the memorandum for tonight's meeting, Ms. Rodrigues is operating a Counseling Psychotherapy business which she commented about and that is a positive thing although he doesn't know if that is part of what this was originally intended for. He thinks if there is a business that also creates increased traffic in addition to the horses. Again, he has no problem with the original approval that AG-1 was recommended for but to change the variance now with the surrounding community he thinks that variance only benefits the resident and that particular owner not the surrounding community or their values.

COMMISSIONER PRIDEMORE said to Mr. Meyers since he is at the podium and is a resident of the area he wanted to ask him a question. He asked Mr. Meyers if he lived in the subdivision directly south of the England's property. Correct? Mr. Meyers replied that was correct. **COMMISSIONER PRIDEMORE** asked him how he would know how many horses are on that property that they are talking about, whether it is 9 or 22. Has there been an increase in noise and dust? How would that directly affect him since the England's property acts as a buffer to you but unless he had not received a notice how would he even know how many horses are on that property? Mr. Meyers said without counting them he couldn't say specifically. He rides a bicycle frequently passed that property and in any given year he may ride passed that property 150 to 200 times. He doesn't believe that there are presently 22 horses there. He would estimate based on his observations anywhere from six to 12 presently. He has seen in the past manure and other droppings from the horses although recently in the last several months he hasn't seen that. When he rides his bike and goes by the property or goes towards ASU Park which is across the 101 in Tempe, he has run into that in the past. Whether it is from that property or not he can't comment, he just knows that it has been there in the past over the last 3 years. **COMMISSIONER PRIDEMORE** said he was just trying to get a handle on this since he has now been there for let's say the last 3 years which was when the last approval was for. He was just curious that during those 3 years if there was something that was happening that had brought that property to his attention in anyway. Mr. Meyers said other than the things he mentioned that is primarily it. Back when this was originally applied for he did get a notice from the City. The only reason that he happened to find this out that they were having this meeting was there was a sign posted in the front yard. Had that not been there he wouldn't have known there was even going to be a hearing. He called the City after he saw that sign because it was very difficult to see from Price Road unless they had stopped and that is an on-going thoroughfare and that time he was told there would be postcards sent out which he did receive the following day. If there are 10 or 12 now, his concern is not that because it is kept relatively clean from his property standpoint, but the potential future problems if they increase that to a 22 limit. It is surrounded by a Planned Area Development, agricultural to the east and to the north

there is commercial property with dentists and orthodontists and other businesses. He can't speak for them however he does believe that a lot of those of which one is his doctor, has a fragrance free policy in the office. Unless the air stays above the farm he suspects they could get an increase in that from the manure.

LUCY LOPEZ, 2727 N. PRICE ROAD (opposed), said she is also a resident over there and she is very concerned about property values because today they are very low. Condominiums are the ones that take the longest to recuperate and she would like to move but until the prices go up a little, she won't be able to. If they raises the horses to 22 that is going to impact her property values and that is not good. Besides they have 90 people living there and they are all affected. They rented the property so that is going to benefit one family. If they don't ride the number of horses, that is going to benefit many families. It is going to keep their property values down. She has heard everything they had to say and this is nothing against the person that lives there and has a business in the house there and they are doing good for the public, but she always thought it was supposed to benefit the most people. The most people won't be all right with that many horses. She knows they don't have that many horses because she does ride her bike on that sidewalk and she has to go around manure sometimes. More horses, more manure on the sidewalk. She is one of those people that doesn't want to deal with manure on the sidewalk. She shouldn't have too. When people have dogs, they pick up after their dogs. Why do people with horses don't pick up after them. She didn't know she could complain. Had she known that she would have been complaining for the last 4 years. She just learned from the sign that was posted that there were people who could listen to her and that she could maybe improve the neighborhood and complained that things won't happen in a way that is going to impact her negatively. She also volunteers next door at the assisted living community and she has talked to some of those people and they are too old to come here and complain but they do not look forward in the hot summers to smell manures and have flies. She knows they say they are going to control it. She doesn't see how they can control that because they rely on the renter. They are here today but could be gone tomorrow. They say they have a contract for 5 years. She has been a landlord and they can break a contract if it is best for them.

BRENDAN RODRIGUES, 2885 N. PRICE ROAD, indicates he is in favor of the project but did not wish to speak.

MR. FIELD, the applicant, thanked them for allowing him to rebuttal some of the things that were said today. To start with he is going to discuss the condos. next door but before he does that he said he has held 3 meetings; 2009 was the 1st one (he got a year), had another one in 2010 and he held one for this meeting here. He mailed out 160 letters based upon our mailing labels and over 90 to 100 went into the condos. that are on the other side of the England's property. They held a meeting in 2009 and they had two people, Kathy and Kenny, show at the meeting. In 2010 they had one person come to the meeting. This meeting he just held had 2 people there, Kathy and Kenny. Where were all these people for the last 3 years? Not one complaint has come to him or his Leasee. He is concerned but he just wanted to point that out because it is concerning to him if people can come and talk about his problems on his property and don't discuss with him prior to the last 3 years. He just wanted to mention that. He also wants to

mention the fact that Kathryn said they asked her to leave their office. They did. She read a two page letter which they have in front of them and after she read it he said to her that he would like a copy to send in with the minutes from the meeting. She said she wouldn't give him a copy; it was only going to the City. He said then what was the sense of the meeting. He said as far as he was concerned the meeting was over with. At that time, they did ask them to leave and he wanted to clarify that.

They have tried to do everything they could on that property. He just spent \$4700 and put a 1500 gallon storage tank on her well with an added pressure pump so that she could water better than what they hooked on in the past. He just wanted to point that out because they are trying to control the dust there and they are doing the best they can. A lot of people said there is some property between his property and the condos. and Kenny has 4 acres there and he also has some horses. He thinks they probably know that already.

As far as the sign is concerned, they had a big rain storm not long after they placed that sign in their front yard and it did blow away. They called the City at that time. As far as building stables or anything like that they will not do it unless it is allowed by the City's code. As far as the manure pile that was brought up, they had a pile there 3 years ago. They took care of it and they don't have it next to the fence. They have tried to do everything they can to appease any problems that come up on their property. He had trouble x number of years ago but that is hindsight and he is not going to even discuss that. They have a very strict lease with their renter and they are required to follow the requirements and he can say Shawn and Brendan Rodrigues do a heck of a job in keeping that place very well.

VICE CHAIRMAN VEITCH asked if there were any questions for Mr. Field.

KATHRYN ENGLAND, 2845 N. PRICE ROAD said she wanted to add to Mr. Field's comments about them having horses. They have one horse and there were three of the Rodrigues' horses on their property. They built the little shed out there which is not theirs. They built that and they paid \$500 a year to have insurance to cover them because they had somebody else's horses on their property. So they are not all bad.

Somebody from the audience tried to speak about the notices.

GLENN BROCKMAN, ASSISTANT CITY ATTORNEY, said the meeting and the notice issues are kind of side issues to the matter that is before them. Obviously, notice must have been given somehow because there are several people who have come out and spoken against this application. The City's requirements are that notice be given in various different formats, at least 3 that he could think of. We do that in part because one format may not always be successful.

VICE CHAIRMAN VEITCH said it does seem clear that one of them was successful.

MS. JODIE NOVAK, SENIOR CITY PLANNER, said that is correct. They have verified that our notices, the mailing labels are correct. It appears their entire Tre Allagio subdivision is still listed and recorded with Maricopa County as the point of contact being D. R. Horton. There is no homeowners association listed with the County records. All municipalities pull property ownership from Maricopa County. They are the only maintainers of property ownership information; the cities are not. They will need to contact Maricopa County to find out why their homeowner association is not listed as the property owner for their landscape tracts and open space areas. It did go to who was listed as the property owner at that time. They did also received correspondence in a letter attached to the report from a homeowner in Tre Allagio and as they have stated have spoken. They are aware that people there were notified.

VICE CHAIRMAN VEITCH thanked her and it was a helpful clarification for their record. He asked Staff if they wanted to add anything.

JESSICA SARKISSIAN, CITY PLANNER said just for clarification because a couple of times it came up regarding spot zoning. This is not spot zoning. This came in from the County with light zoning and as a Use Permit that comes through every few years and gets looked at. As far as a stall being constructed, they did hear that complaint from the England's and they did go out and investigate and they did not see anything under construction. They have gone out there 3 separate times every time they are told they are working on something. They have not seen anything like that. If they were to do anything, they would be required to follow our code in terms of what is required and things like that for permits based on square footage and height. The sign unfortunately did go down before the last storm and the owner did notify them that it went down and the next day they went out there and reposted it again. She said everything had been notified correctly.

COMMISSIONER CUNNINGHAM asked Staff that in this particular area are there other horse properties in this area? Ms. Sarkissian replied the closest one would be the England's to the south and then they do have the rural residential properties which are RU-43 which are allowed to have horses on them. Whether or not they choose to is up to their discretion. **COMMISSIONER CUNNINGHAM** said so it would be possible if there were horse manure's left on trails that they may not belong to Ms. Rodrigues's. Is that correct? Mr. Sarkissian replied that was correct. **COMMISSIONER CUNNINGHAM** said it seemed concerning to some of the residents in the condominiums that they are being asked to approve an increase in the number of horses from 2009. They are not; they are being asked to re-approve what was approved in 2009 for 22 horses. Additionally, as Ms. Rodrigues had indicated, she has not increased to 22 horses and does not in fact have 22 horses. Is she understanding this correctly? That she will be down to 17 horses?

MS. RODRIGUES replied there were 22 there when they first took over the property to go over the lease. As they left, they didn't replace them. Now they have 19 there with 2 leaving as soon as their property is finished. **COMMISSIONER CUNNINGHAM** asked if she has plans to replace them or increase it to the 22. Ms. Rodrigues said no it is too many.

VICE CHAIRMAN VEITCH closed the public portion of the hearing and looked for further discussion from the Commission.

COMMISSIONER PRIDEMORE stated the most telling part for him and with some of the questions he asked and as Commissioner Cunningham just pointed out they are looking to reapprove conditions that have been in place for the last 3 years. He doesn't see that anything has changed. In fact it sounds like it has gotten quite a bit better. Again, he is not quite sure how they can tell as they are walking by the property and counting horses, to even know how many are there. It does sound like Mr. Field has a very conscientious tenant and they are trying to keep the dust down which to his knowledge, none of the people opposed even brought that up. That was brought up by the tenant. So with that he didn't see that anything has dramatically changed. He feels better that Staff has gone out unannounced to take a look at this property and has found nothing to be out of order and that there are outstanding claims with the Maricopa County Air Quality Control people. With that being said he has listened to the neighbors and in trying to keep an eye on this property, he would put forward that instead of the 5 years and 1 year is too much, they have done 3 and have done well with the 3. Again, to keep an eye on things, he would recommend modifying condition no. 8 from 5 to another 3 years so they can keep an eye on this so that it is not out sight for another 5 years.

COMMISSIONER RYAN stated he wasn't there 3 years ago. This horse boarding has spent its use but on the other hand they are cable of keeping horses with 8 or 9 horses. The difference is just a few horses and at least in listening to Commissioner Pridemore it gives them a chance to monitor this through a Use Permit. If they disallow it, they can keep up to 8 or 9 horses anyway. How are you going to monitor whether they are boarding them or whether they are their horses? It is a tough situation. It sounds like they are trying to be fairly decent neighbors. He would ask Staff that any comments that would come from neighbors be well documented so that this could be monitored a little closer 2 years from now. He said he will go along with Commissioner Pridemore to go ahead and let this go through for 3 years.

VICE CHAIRMAN VEITCH said consistent with what Commissioner Pridemore said they are being asked to extend the time on a Use Permit situation that has existed under a number of conditions without substantiated or documented problems or violations for 3 years and would be hard pressed to find a reason to not do that. He doesn't have difficulty with the suggested amendment of condition no. 8 from 5 to 3 years to allow sooner monitoring. He agrees with what Commissioner Ryan said about keeping a close watch on what is going on and responding to any substantiated complaints.

COMMISSIONER PRIDEMORE, seconded by **COMMISSIONER RYAN** to approve ZUP13-0002 NORTH PRICE STABLES subject to conditions recommended by Staff with an amendment to condition no. 8 from 5 to 3 years. The item passed 5-0 (Chairman Rivers and Commissioner Donaldson were absent).

VICE CHAIRMAN VEITCH said this will be going to Council on April 11.

6. DIRECTOR'S REPORT

Ms. Jodie Novak, Senior Planner, said there was nothing to report this evening.

7. CHAIRMAN'S ANNOUNCEMENTS

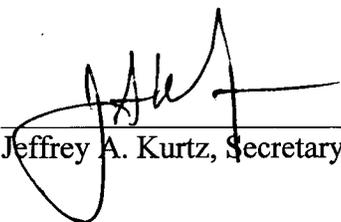
VICE CHAIRMAN VEITCH said the next regular meeting is April 3, 2013 at 5:30 p.m. in the Council Chambers at the Chandler City Hall, 88 East Chicago Street, Chandler, Arizona.

8. ADJOURNMENT

The meeting was adjourned at 7:25 p.m.



Leigh Rivers, Chairman



Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, April 3, 2013 held in the City Council Chambers, 88 E. Chicago Street.

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

Chairman Leigh Rivers
Vice Chairman Stephen Veitch
Commissioner Matthew Pridemore
Commissioner Katy Cunningham
Commissioner Bill Donaldson
Commissioner Phil Ryan

Also present:

Mr. Kevin Mayo, Planning Manager
Mr. Erik Swanson, City Planner
Glenn Brockman, Assistant City Attorney
Ms. Joyce Radatz, Clerk

Absent and excused:

Commissioner Andrew Baron

4. APPROVAL OF MINUTES
MOVED BY VICE CHAIRMAN VEITCH, seconded by COMMISSIONER PRIDEMORE to approve the minutes of the March 20, 2013 Planning Commission Hearing. The motion passed unanimously 4-0 with 2 abstentions (Chairman Rivers and Commissioner Donaldson). Commissioner Baron was absent for this meeting.
5. ACTION AGENDA ITEMS
CHAIRMAN RIVERS informed the audience that prior to the meeting Commission and Staff met in a Study Session to discuss each of the items on the agenda and the consent agenda will be approved by a single vote. After Staff reads the consent agenda into the record, the audience will have the opportunity to pull any of the items for discussion. There were no items pulled for action.

A. DVR12-0040 900 E. CHANDLER BOULEVARD

Approved.

Request rezoning from Single-Family Residential (SF-8.5) to Regional Commercial (C-3) on approximately .15 acres. The property is located at 900 E. Chandler Boulevard, west of the northwest corner of Chandler Boulevard and McQueen Road.

1. The rezoning request does not include a specified timing condition. This includes relief of the 1-year timing condition from the effective date of the ordinance as specified in the City Code section 35-2603.B

B. DVR12-0042 MUMTAZ GATED COMMUNITY

Approved to continue to the April 17, 2013 Planning Commission Hearing.

Request rezoning from Agricultural (AG-1) to Planned Area Development (PAD) for a townhome development on an approximate 6-acre site, along with Preliminary Development Plan and Preliminary Plat approval for a 69-lot subdivision. The subject site is located east of the southeast corner of McQueen and Willis roads. **(REQUEST CONTINUANCE TO THE APRIL 17, 2013 PLANNING COMMISSION HEARING.)**

C. ZUP12-0035 EVA'S MI AMORE

Approved to continue to the June 5, 2013 Planning Commission Hearing.

Request Use Permit extension approval to operate a wedding planning and bridal service office in a converted residence in the SF-8.5 Single-Family Residence zoning district. The property is located at 598 W. Chandler Blvd.

MOVED BY VICE CHAIRMAN VEITCH, seconded by **COMMISSIONER RYAN** to approve the Consent Agenda as read into the record by Staff. The Consent Agenda passed unanimously 6-0 (Commissioner Baron was absent).

6. DIRECTOR'S REPORT

7. CHAIRMAN'S ANNOUNCEMENTS

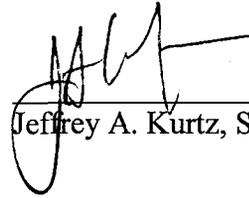
CHAIRMAN RIVERS said the next regular meeting is April 17, 2013 at 5:30 p.m. in the Council Chambers at the Chandler City Hall, 88 East Chicago Street, Chandler, Arizona.

8. ADJOURNMENT

The meeting was adjourned at 5:34 p.m.



Leigh Rivers, Chairman



Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, April 17, 2013 held in the City Council Chambers, 88 E. Chicago Street.

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

Chairman Leigh Rivers
Vice Chairman Stephen Veitch
Commissioner Katy Cunningham
Commissioner Phil Ryan

Also present:

Mr. Kevin Mayo, Planning Manager
Mr. David de la Torre, Principal Planner
Mr. Erik Swanson, City Planner
Glenn Brockman, Assistant City Attorney
Ms. Joyce Radatz, Clerk

Absent and excused:

Commissioner Matthew Pridemore
Commissioner Andrew Baron
Commissioner Bill Donaldson

4. APPROVAL OF MINUTES
MOVED BY VICE CHAIRMAN VEITCH, seconded by COMMISSIONER CUNNINGHAM to approve the minutes of the April 3, 2013 Planning Commission Hearing. The motion passed unanimously 4-0 (Commissioners Pridemore, Baron and Donaldson were absent).
5. ACTION AGENDA ITEMS
CHAIRMAN RIVERS informed the audience that there were no items on the Consent Agenda to be read in for the Study Session. The two items, A and B on the agenda, were pulled for action.

ACTION:

A. DVR13-0007 FRY'S 69 FUEL CENTER

Denied.

Request rezoning from Planned Area Development (PAD) Commercial to PAD Amended to allow for a fuel station, with Preliminary Development Plan approval for site layout and building architecture for the fuel station. The subject site is located at the southwest corner of Alma School and Germann roads.

MR. ERIK SWANSON, CITY PLANNER stated this is a request for rezoning from PAD for Commercial to PAD Amended to allow for a fuel station along with Preliminary Development Plan approval for site layout and architecture for that fuel station. The subject site is located at the southwest corner of Alma School and Germann roads. At this particular intersection there are 4 corners of commercial. West of the site and west of the shopping center is single-family residential subdivision additionally that wraps around to the south. The subject site was conceptually zoned in 1993 and then formally zoned to commercial in 1994. It went through a couple of extensions for zoning and ultimately in 2001 a PDP was approved for the layout and architecture of the Fry's center as it exists. In 2006 the bank came through on that site through a separate PDP.

At that initial approval process in 2001, the applicants at that point in time based on some neighborhood opposition, agreed to prohibit fuel stations at that site. When that was initially submitted, a fuel station was proposed at the immediate intersection corner but again through discussions with the neighborhood they decided to remove that and then also provide a condition. It should be noted that ultimately with the approval of that PDP, the intersection corner was always anticipated to allow for some sort of future commercial pad. It never came to fruition. Ultimately, Fry's decided to go ahead and pave it, put some additional parking on there. If they drive out there, they will notice that it is all striped in blue stripes. That is primarily where they encourage employees to park but again it has always been slated for future commercial development. The request for tonight is for the canopy kiosk, fuel dispensers, drive aisles, architecture, etc. Ultimately, when they are looking at the site, those improvements will displace 3 parking rows; that's one double and then one single-3 total. That is going to eliminate 46 parking stalls.

The request has gone through a number of processes and is kind of an interesting path, one that has been a little bit difficult. When they initially submitted in 2012, they were told that they needed a rezoning. After further investigation they realized that the proper course was to really go through the Preliminary Development Plan process and the Use Permit process because with the original approval in 2001, it was done under a PDP. Because it was done under a PDP the conditions were not part of an ordinance and so rezoning the property to remove a condition that wasn't part of an ordinance they felt wasn't the proper way to go. So they withdrew that and

submitted a PDP and Use Permit. Ultimately based on some conversations, it was determined that really the best course for clarity would be to go up through that rezoning process. Again, they worked through those and resubmitted under the new rezoning which is the case before them now.

It is important to note that throughout the process there was a neighborhood meeting held with each one of those applications, with the initial rezoning with the PDP and the Use Permit and then also with this current request. None of the sites architecture has changed since that initial submittal. It has remained the same. Again, there were those 3 neighborhood meetings. A number of residents attended all of those and as indicated in the Staff memo, the 3rd neighborhood meeting had not been held. It has been held and approximately 14 neighbors attended. At those neighborhood meetings a number of the concerns that came up were also reiterated from the 1st and 2nd meetings. Those primarily deal with concerns about how they already have 2 fuel stations, have concerns about the parking that is out there now, and then also traffic patterns along Germann and Alma School road and how having that fuel station might contribute to those as well. Additionally, there were some comments that people just did not want fuel stations. What he failed to incorporate into the Staff memo is that he has heard from a couple of residents that were also in support of it but those were just real general, they support the fuel station comments.

Addressing some of those concerns, while it is uncommon that they have 3 fuel stations at an intersection, when you take a look at the larger overall area and more specifically south of the 202, this part of Chandler is largely under served. He had a map showing where they have current locations and then proposed that he could show it if the Commission was interested or would like to look at that further. Addressing some of the circulation and traffic patterns, in speaking with their traffic department, Alma School Road does have a considerable amount of traffic. However, it is not at capacity. The amount of traffic generally falls around the time that people leave to go to work and then also return from work. As part of that, he did ask their traffic department that what is being proposed is a fuel station, how do they look at these based on number of trips generated and things like that. Really what the response was is fuel stations rarely cause their own trips. What people will do is they will either stop at the gas station on the way home from work or they will stop at the gas station on the way to work. Rarely does somebody leave just to go to the gas station. Again, looking at some of the circulation and traffic counts in speaking with Frye's they have also indicated that the number of users that use their typical fuel stations, about 60% and more will actually go to the fuel station at the same visit that they are doing their grocery shopping. There are really not many new trips as part of that. Based on that information and also based on reviewing the site for the architecture and layout, Staff does believe that it meets the intent of our commercial design standards and they are recommending approval. Although the fuel station is a little bit muted compared to other recently approved fuel stations, they have done a good job of blending it in with the existing architecture and design that is currently out there on the site.

Staff has heard from a number of residents. Additionally, they have heard from a representative of the Cobblestone Fuel Station to the east as outlined in the Staff report. He would be happy to go into any further details that they would have about this and answer any questions.

CHAIRMAN RIVERS asked if there were any questions for Staff.

VICE CHAIRMAN VEITCH asked regarding the original approval there was a stipulation added that said there would be no fuel stations on this site. Correct? Mr. Swanson replied correct. While initially they agreed to that, there is nothing that prohibits them from going back through the process to have that removed which is ultimately why they are here. **VICE CHAIRMAN VEITCH** said that is what he was seeking; to verify that is not an assurance that will never happen, it was just a withdrawal without prejudice to asking for it again. Mr. Swanson said correct. In this particular case it is a very interesting zoning case but looking at some of those original conditions of approval, they also stipulated that no bars or taverns can locate in the shopping center there. There were restrictions on fryers in restaurants, restrictions on the size of the restaurant so it is really kind of a novelty when you are looking at it from an approval process. He also wanted to bring up that as part of the approval there was a condition that restricted parking on the back side. What ultimately came of it was that Fry's was required to put gates on both the west end of the development and on the south which really was meant to restrict truck traffic and things like that. Specific hours of operation would be put on that so the gates would be closed from 6 p.m. to 6 a.m. You wouldn't have that traffic. Additionally, the neighbors requested that pedestrian access be restricted for that as well. That is on there too, which again is kind of an anomaly that is not typical. Again, trying addressing that and going back to that, Staff did also receive a letter from the representative of Cobblestone drawing attention to concerns with the parking calculations. If they want to bring that up, they can discuss that at a later point in time. He didn't want to drop information on them if they weren't interested.

KEVIN MAYO, PLANNING MANAGER, said in terms of that stip. that was on the 2001 PDP, it is a questionable stip. in the event that it was restricting the land use that was not otherwise previously approved. With the original zoning, when Clemente Ranch was zoned and established its conceptual zoning, the Zoning Administrator has always interpreted that conceptual commercial zoning C-2. If you look to their code, fuel stations are not permitted by right in C-2. They will take the Use Permit in C-2 or an amendment to the PAD. When they came through for their design of that center, it showed a gas station. Going through that process, the neighborhood involvement ultimately arrived at, o.k. fine we are not going to ask for a gas station, but there was a stip. that was placed on a PDP. The PDP really just organizes the land uses that are otherwise permitted under the PAD. That PDP had a stip. on it that said no gas stations and prohibited the use that was not otherwise approved under the original zoning nor were they seeking at the time a zoning amendment to consider the permission of that use. The stip. that was in 2001 it is murky as to how it got there and the validity becomes almost in question. Whether or not that stip. wasn't there, did they ultimately have underlying rights to fuel sales which weren't called out in the original zoning under Clemente Ranch. Today what is before them is a zoning request to seek the fuel sales and design.

CHAIRMAN RIVERS asked if they knew if this was going to need a super majority to rule on this at Council. Mr. Swanson, City Planner, replied that based on the opposition to the east it does require the $\frac{3}{4}$ vote. There is a legal protest.

CHAIRMAN RIVERS asked the applicant if he wished to speak. He did and came up to the podium.

JEFF GUYETTE, FRY'S FOOD & DRUGSTORE, said when this fuel center was originally proposed when they developed this shopping center Fry's had only constructed one fuel center in the entire valley so the concept of having a small fuel center with an employee manned kiosk to service the customers was something probably that people weren't familiar with. Thinking about a fuel center you think about a large Circle K or Quick Trip style or a large Chevron with a convenience store. That isn't what their concept is and that is not what they are proposing today. That may have been a reason back then why there was a lot of opposition for the fuel center. Their concept is different than a typical convenience store/gas station. They don't have a large walk-in convenience store to sell soda drinks, coffee drinks or a significant amount of snacks like other locations. As far as traffic, our current data shows 65.2% of their fuel sales are generated within the same trip of the grocery stores. So 34.8% of the sales could be attributed to either other people shopping within the center or some street traffic passing by. He said he would be happy to answer any questions they might have.

CHAIRMAN RIVERS asked if there were any questions for the applicant. He said he had one. He said he has heard from two different sources this evening that people do not go to the Fry's gas station as a single trip and he will dispute that because he goes to the Fry's Gas Station as a single trip on the last day of the month. When he does that, he finds a crowd of people in the gas station doing exactly what he is doing which is taking all of his Fry's foods and turning them into lower priced gas. He does that on the last day of each month and the crowds that he encounters eventually will be on a first named basis with each other as they all tend to show up at the same time of day. There are single trips and it is not just shoppers and so forth. He has read both in the newspaper, The Republic, and on-line that it is the intention of Fry's Grocery store to close all their locations that have no fuel stations within the next 3 years. Is that true? Mr. Guyette from Fry's said he cannot answer that question. **CHAIRMAN RIVERS** asked because he has no knowledge or because he is prohibited from answering? Mr. Guyette said they can't give that information publicly. Fry's is looking at all of its shopping centers long term. Fry's is looking at the viability of all of their shopping centers. He can't say their goal is to have a fuel center at every one of their locations.

CHAIRMAN RIVERS said he has quite a few speaker cards. Once he gets through all of the speakers cards, he will invite the applicant back up to speak to us again to answer any questions or concerns. He started with the speaker cards who did not wish to speak. He read those into the record.

PARMDIT SBADWAL, 2564 E. HONEYSUCKLE PLACE, is opposed to this item.

TEJVIR SARAN, 2472 W. SPRUCE DR., is opposed to this item.

NIRMALS NAGKA, 3102 S. COTTONWOOD ST., is opposed to this item.

SATPAL SAREN, 2472 W. SPRUCE DR., is opposed to this item.

MIKE PETTEBONE, 1057 W. SWAN DR., is opposed to this item.

BEVERLY CANFIELD, 411 N. KYRENE RD., is opposed to this item.

SANDEEP SINGH, 3093 E. ORIOLE WAY, is opposed to this item.

A. SAEED, 855 N. DOBSON ROAD, is opposed to this item.

NOEMI HERNANDEZ, 2400 N. AZ AVE., is opposed to this item.

AHMAD KHAN, 855 N. DOBSON ROAD, is opposed to this item.

ROBERT MINSON, 2021 S. ALMA SCHOOL ROAD, is opposed to this item.

ELISA VILLELA, 2255 W. PLATA AVE., MESA, is opposed to this item.

JOSEPH MCMORRIS, 6836 E. AVALON DR., SCOTTSDALE, is opposed to this item.

JAMES LEE, 2811 E. LACOSTA DR., is opposed to this item.

NICK BAUER, 5151 EAST GUADALUPE RD., PHOENIX, is opposed to this item.

ANDREW ELONDANAT, 2910 S. GREENFIELD RD., GILBERT, is opposed to this item.

JASON DYER, 3770 E. KINGBIRD PL., is opposed to this item.

JENN HORVATA, 41841 W. COLBY DR., is opposed to this item.

CHAIRMAN RIVERS said all of the above people are opposed and either do not wish to speak or are yielding their time.

MICHELLE VOLK, 11811 W. PELICAN CT., CHANDLER, stated she attended all of those meetings Mr. Swanson referred to with the planning of Fry's back in 2000. She has gone to every single one of them and Fry's agreed to at that time to not build a gas station because they wanted to keep the neighborhoods as pristine as possible. They also knew there was an issue with the parking lot numbers and they expected some of their employees to park behind. Well there is a 3rd gate that if you have Fry's employees parking behind there, they will have to walk

all the way around by the UPS store, all the way around and back up to Fry's because that gate is to remain locked at all times. It is never opened from 6 to 6. There is one on the east side and one on the north side and those open from 6 a.m. to 6 p.m. That is why there is no thoroughfare of traffic. They asked Fry's to do that so that there wouldn't be things going on behind Fry's which has happened at other grocery stores. That is why that is there. They appreciated the integrity of Fry's at the time stating that they would not push the issue of installing a gas station knowing that the other corners were available for that option. As far as them mentioning that you redeem your gas points, she asked at Fry's where the next nearest gas station is, where they can redeem their gas points. He said 10 minutes away at Riggs Road. To her, everyone who lives within a 10 minute drive is going to come into that Fry's gas station. She thinks if they were to sit and watch traffic, she lives right on Germann and Comanche, trying to get out and turn left going west is very difficult.

Last summer she contacted the traffic office and they said they had done a study before and it does not warrant a traffic light because that would slow the traffic going north and south. She agrees if there is no traffic there. It is very difficult to make a west turn on Germann Road; also, even going towards the east because everyone is doing U-turns right there at Germann past Alma School Road. It is a very congested area for people who live north and who live south on Germann at Comanche. She thinks the people who live passed the 600 foot radius that had to receive one of the little cards about this meeting, she doesn't think they comprehend the potential of difficulty they will have getting out of Comanche on to Germann with the gas station drawing so much more traffic for their gas prices. Also, with the 300 apartment building complex going on down at Dobson, that is going to bring even more traffic. It is a very dangerous corner. She knows there has only been 1 traffic accident but there are people honking there, you sit and wait and wait and many times it is not just rush hour traffic.

She also wanted to say that Mr. Swanson indicated they haven't changed their design. She doesn't think they originally had a gas station price. She doesn't know what they call it on the outside street and she thinks they added that. That tells her they are trying to draw traffic from people other than those shopping in your Fry's grocery store. She thinks it will generate a lot of traffic on Germann Road. You can't access that unless you make that U-turn there. You can't access it very well at all if you are going down Germann road.

LESLIE PITTS, 1057 W. SWAN DR., CHANDLER said she is also a neighbor that lives within the 600 foot radius. She lives within Clemente Ranch right behind Fry's. In conjunction with what Michelle had to say, they have 2 egresses. They are sort of trapped within that shopping center. At the Comanche and Germann intersection so to speak, it is sort of a "T"; it traps them particularly during the morning and afternoon rush hours. She asked for a traffic study and was told that there are certain things that warrant an official traffic study. They conducted their own study of the number of times that they leave and making a left hand turn out of that neighborhood is near impossible during certain times of the day. Just to make a right hand turn so that they can get out and into Fry's or getting on the 202 is hard – just as they think it is safe to make a right hand turn someone is quick making a U-turn and they are always making them so they can get into the Fry's shopping center. It was anywhere from 1 to 4 times.

Every 1 to 4 times right now they are trying to get out of their complex and someone is quickly making the U-turn to get in there. She contacted the Chandler police and found out in the last 3 years there have been 3 reported car accidents. One was an injury. So that is happening right now. Mr. Swanson noted that when he talked to Fry's that 60% of the customers get their gas while they are at the store. There is till 40%. That is almost half of the people that are going to be driving from everywhere to come get their gas. That is going to be during these times of day whether it is after work or before work and it is still getting out to the freeway.

This nice community that they have chosen to live in is going to be an amazing headache and if the average is one accident per year that is one too many as it is. It is always because someone is trying to get out of their complex. The second thing she would like to be able to say is that Chandler is always saying to the residents to shop in Chandler, keep the tax base in Chandler, do whatever you can for the City of Chandler and she knows that the Cobblestone Car Wash was assured that another gas station would not be built within that intersection. A lot of the residents that she has spoken to within Clemente Ranch have been very disappointed to hear that there is a possibility that a local business would be affected because the assurance they were given that a fuel center would not be put at that intersection. Fry's is a big conglomerate. They are a Cincinnati based company and it's upsetting to a lot of residents who couldn't be here right now because of the time of day that this could be happening to one of their local businesses.

Fry's has talked to them at their neighborhood meeting about the fact there are 3 gas stations. They don't need 3 gas stations at one intersection. There are lots of other gas stations. There is one 2 blocks further down on Arizona and Germann. It is a Circle K or some type of gas station like that. There are others north on Dobson. She has never waited whether she has gotten gas at Chevron and has never once had to wait in line to get gas and when they were told there was another like intersection where Fry's was located and there were 2 other gas stations, he referred her to an intersection at 43rd and McDowell. She went to take a look there and it is strictly commercial; it is not a neighborhood. They would like to keep Clemente Ranch a neighborhood; that is why they all moved into that neighborhood because of the schools. There are a lot of new families, young families moving in there because of the new Intel facility. There are a lot of kids on bikes and on skateboards and they don't want to be a 43rd and McDowell. They would like to keep it the way that it is. They do feel very strongly that this fueling station will make a significant change into their community. She said she appreciated the time they allowed her to speak.

J. D. SARAN, 1990 S. ALMA SCHOOL ROAD, CHANDLER said he owned the Chevron. He bought it in 2004. Moved from Oregon where there was Kroger's. They were building the gas stations left and right. Those days gas price was about \$1.99. Then when they opened, they put it at .99 cents. A lot of small gas station owners left Oregon at that time and Washington as well. They searched City of Chandler, beautiful schools and good community and then they picked this corner and got a realtor who did all the due diligence and there was a gas station. They spend a lot of money on that site and everything is going fine and now these days Fry's are opening left and right. Everybody wants to save money. If he didn't have a gas station, he would too because of gas prices. Everybody does go all over. He went to 3 different places and

he sits and waits for 30 to 45 minutes. There is always back up everywhere. They do shop at Fry's and they know how crowded it is. When they build a gas station, it is going to be more crowded. They are not scared of the competition; they did not oppose it one bit on Arizona Ave/Germann, the Quick Trip. He doesn't think this one is the right place. They do have some data. If there is one fire, 3 gas stations close. They have all of the pictures if they want to see, he can show them. They need to keep the neighborhood safe; the local community, owners, members and residents instead of building this big corporation and making them richer and kick them out.

MIKE CAHILL, 3739 E. BELL ROAD, PHOENIX, stated he is the Principal of Cobblestone Auto Spa. They are a locally owned business and have been in the valley since 1997. They initially came to their site at Alma School and Germann in 2001. They went through a 2 year process, a very arduous process but one they are happy they did to build the site they did build. They employ 75 people and 450 people valley wide. He said he thinks they are a good community citizen in Chandler. From what they hear people are happy they are there and they do a pretty good job. One of their major decision points when they decided to build this 7 million dollar site in 2001 was the fact that there were only going to be 2 gas stations on that corner. They took to the bank the fact that gas was prohibited for the Fry site across the street in February of 2001, which was recorded in November. They pretty well assumed that was going to be the case and as a result they built their site. They are very happy they are there. Here they are 8 years later and here comes Fry's deciding that as a result of the evolution of grocery store marketing, they are going to sell gasoline and provide that as an outlook to redeem reward points. They like to do that themselves as to other brands of which Shell is one. So they redeem Fry's points by the boatloads themselves because they are a Shell outlet and they are right across the street. Nevertheless, they are strongly opposed to this application for the very reason that it was stipulated in 2001 and that there was not going to be any more gasoline at that corner other than the Chevron and themselves.

They feel there is no need for additional gasoline. There is a Quick Trip which was built down the street a 1 ½ years ago at Arizona and Germann. There is a Circle K cattycorner from that. There is the Chevron and themselves at Alma School and Germann. They have capacity to pump more gasoline and maybe Mr. Saran does himself. They are by no means built out as far as their gasoline capacity is concerned. They are not afraid of competition in anyway shape or form and the Quick Trip was proposed at Arizona and Germann and they had no problem whatsoever. Would they prefer they weren't there? They understand the Planning and Zoning and the approval process and competition is part of what makes the world go round. So Quick Trip does a good job and they couldn't be happier. It is just the way competition works and that is certainly fine with them. Once again this was stipulated for no gasoline and the basis of their opposition.

As far as architecture goes, he said they were held to a high standard and he thinks Chandler is a great community and everything looks ideal as a result of the high standards. In fact, they received an award in 2003 when they opened from the City as being one of the best looking retail outfit in town for their architecture. He is a little disappointed that Staff has approved the

architecture of this Price Fueling Center. To him it is bland and certainly not to the standards that Chandler is known for. That doesn't belay the fact that they are opposed to the full concept in the first place. At the end of day Fry's is a 90 billion dollar corporation that is in this solely as a marketing tool to help sell groceries. It is not a needed service for the city and they have plenty of gasoline and it is just a marketing tool for them. For all those reasons they are very much opposed.

CHAIRMAN RIVERS asked Mr. Cahill since he had Shell gas at his location do they redeem Fry points as well? Mr. Cahill replied that he did. **CHAIRMAN RIVERS** said if he goes to Circle K with his Fry's points the most he can get is .10 cents off a gallon. Is that the same case where he is? Mr. Cahill said yes. **CHAIRMAN RIVERS** said if this is built, he can come to their station and get .10 cents off a gallon or he can go across the street and get a \$1.00 off a gallon. Mr. Cahill said that was right.

TUCK BETTIN, 3739 E. BELL ROAD, PHOENIX, stated he was one of the Principals, General Manager and resident in the Chandler area. His focus this evening is not about the competition. His partner already stated that they welcome competition. They have been on both ends of that spectrum and they have thrived. It has made them better and it makes the country better and those who do a good job, take care of their customers and work hard are rewarded. They think they are the beneficiaries of all that since they have located in this Chandler area in 2003. They worked hard to be here, they worked hard since the day they opened and they receive plenty of accolades even though they are not perfect every day of the week as they try to serve the community. What he would like to focus on is not competition and they definitely don't want to be misconstrued as claiming that is not fair because they are o.k. with that.

He wanted to share a study that they did themselves and spent quite a bit of time focusing on what has gone on since the reported Fry's gasoline market in the 2000's and it's titled Negative Effects but really it is grocery marketing and it is using gasoline to do so. He said members of the Commission have copies of this that they can read later if they want to in more detail. They basically have a large 90 billion dollar corporation leveraging gas as a marketing program not really to better serve customers. The aggressive expansion of gas stations is really outpacing the market demand and needs from a supply/demand relationship. In many cases it is merely trading gas nozzles from one corner to another throughout the valley. Many locally owned small businesses are unable to survive with the over saturation and are disappearing from the marketplace. The corporate profits don't even stay here locally. Unfortunately, this is one of the shared concerns they have as well as the City of Chandler. Often times this leaves blighted premises left vacant and often times in prominent community corners in communities that once had thriving local business don't. Often times this is called the Walmart effect of big corporate business pushing out the local. He would refer to Chandler's 2010 Study that was finalized in 2012 on vacant businesses including areas right around this area down near the Queen Creek corridor where 33% of retail businesses were left vacant and part of the City's conclusion was there was just too much retail developed by the business and by the City and it left later that challenge.

He showed a map that depicts the Fry's logos as the local Fry's gas stations, not the groceries but the groceries with gas that have been developed around the Phoenix metropolitan area. Black x's are typically local gas station operators or gas facilities that have been closed. He is not in any way, shape or form dictating that one equals the other but he would merely indicate that the map somewhat speaks for itself. There are a large number of Fry's fueling facilities developed in this area in less than 10 years and of those 38 sites in the Phoenix/Metro area there are somewhere around 35 closed gas stations in the same proximity.

He showed a close up look in the north area of Phoenix of Fry's gas grocery stores along with closed gas stations; east valley Fry's and closed gas stations. Two of the neighborhood meetings that he personally attended with the Fry's representative claim there is this peaceful co-existence of Fry's gas stations going into communities and everyone else is doing just fine. In Fry's corporate words this location of McDowell Road and 43rd Avenue there is a Fry's and 4 gas stations and everybody is surviving and doing just fine. They have heard that at 2 different neighborhood meetings as this is their model and this is how it works everywhere else. At that intersection there are not 4 gas stations, there is now 3; one of them has closed. He doesn't know why they would use that as an example in the first place but he does think it speaks for itself.

Some of the pictures point out unfortunately what some of these communities are not only left with from a business standpoint but also what it looks like from the intersection; fences put up and boarded up buildings. These are all locations within very close proximity to Fry's gas. In conclusion and closing, they respectively ask for their denial of this application whether or not it goes to City Council. This is a denial request based upon really what the City cares about as much as they do; the right development for the right area at the right time. This is further backed up by the fact that Fry's themselves on multiple occasions has agreed to not put in gas in a location that has led to several other people, residents moving in and businesses locating for the right reasons, that was not going to happen.

CHAIRMAN RIVERS asked Mr. Bettin to put his slides back on the screen. He asked why he didn't show the Fry's gas station that is at Ray and Rural on this map. Mr. Betting said probably an oversight. **CHAIRMAN RIVERS** said he seemed to remember one that is not there anymore as well. Mr. Bettin said they didn't pay a consultant \$10,000 to try to do this. They had one of their marketing team members do this and he spent quite a bit of time trying to help us understand what's going on in this metro area.

EDDIE BROWN, 3823 W. ELGIN ST., CHANDLER said he is a store manager at Cobblestone Auto Spa in Germann and Alma School. From a personal standpoint as a person that lives in the community, he rides his bike to work often times and in the afternoons it is very difficult for him to get out of work. He has to constantly look at the traffic that is already there and he hears all these stats. about accidents and he sits in his store every day and he sees the crazy congestion that goes on up and down Alma School Road with traffic backing up all the way beyond where he can see it. He has seen several accidents himself in the last year right in front of his store. To him it is kind of dangerous. He tries to ride his bike and it is sometimes difficult to get across the street as it is because people don't really pay attention as it is. From

another personal standpoint and as the manager of the store, the Quick Trip that went in already has kind of affected him financially because they have taken a little bit of hit on his gas sales. Not tremendous, but a little bit. Part of how he makes his money is based on his sales and such. His fear from that standpoint is that when the Fry's comes in people have an opportunity to come to him and redeem their points for their .10 cents off a gallon as opposed to going across the street to Fry's. Like the one lady said, it is 40 percent, almost 50% of people that are going to come there just to do that. Again, that is going to have an effect on his gas sales which he is responsible for and again, his income and his ability to support his family. This gentleman was talking about the stipulation in the original request when they wanted to build the Fry's in the first place and it being murky. To him that doesn't make any sense because when Cobblestone came in and when the gentleman that has the Chevron came in, they didn't see it as murky they just saw it as it was there. They made their decisions based on the fact that was there whether it was murky or not. It was still there. They decided to build in that area based on those stipulations and he doesn't see how it's right that a large corporation can come in and just change their mind and go against those stipulations that cause somebody to build a 7 million dollar facility and set up business in the city based on those stipulations for the most part. They are talking about the saturation of gas; there is a Quick Trip now, a Circle K, there is Cobblestone and Chevron. That is 4 stations right in that area and just based on the fact that he doesn't pump gas as he used to tells him they are not starving people for gasoline. It is not like they need another gas station in that area nor do they need the traffic.

STEPHEN ANDERSON, 2 N. CENTRAL AVE., 15TH FLOOR, PHOENIX, said he is there on behalf of Cobblestone which is located at the southeast corner of Alma School and Germann directly across the street. He represents Tuck Bettin and Mike Cahill and their employees. They are opposed to this application that is before them this evening.

In the beginning his PowerPoint presentation is going to be a little bit quick because a lot of these points have already been touched on. As has been indicated before, while they are obviously concerned about the competition, Cobblestone is not opposed to competition. They already have competition from Chevron catty-corner and from the Quick Trip down the street along Germann. They do think that competition when it occurs should be fair, equal and honest. The fundamental time the competition should figure into land use decisions and now they are talking about their job, is when the potential exists for empty corners. This is him or Cobblestone talking, this is the Mayor's 4-corner Retail Committee. This final committee report was issued in March 2011 and this excerpt from the report shows that vacancies are the primary concern of the report. As they can see from the next page in the document which they have in their hard copy, the work vacancy is highlighted on the page in that document and that shows them that the purpose of their report was to guard against excessive commercial vacancies within the city.

The neighbors told them that they are afraid if the Fry's gas station opens, either Cobblestone or Chevron is going to go away and they will be the ones who have to bear the cost to their community of the vacant, boarded up corner and Tuck has already spoken to them about the details of those risks in his presentation.

The next issue he wanted to talk about was aesthetics. He indicated earlier that they think competition should be fair when it occurs. He wanted to talk about the idea of the fairness being tied to the level of aesthetics at the various businesses. What is happening here is the City is putting a thumb on the scale that no one is talking about. That is really what happens when the City sets a different aesthetic standard for businesses that should otherwise be the same. Now when Cobblestone came through when the City entitlement process was more than a decade ago, the City had set a very high aesthetic bar for Cobblestone. Cobblestone erected 3 architectural towers on the site of different heights (he showed pictures on the overhead). In addition, Cobblestone lushly landscaped the site. As Tuck and Mike indicated, when Cobblestone was done with their site, City of Chandler gave them a design review award. This is the city saying you have done a great job with your project. This is the reward that they received from the City at the time of their reward and conclusion of business.

Some of the things that Cobblestone did at their business was to re-orient their pumps in a diagonal direction. That was something that was done at the suggestion of the city. Cobblestone provided a pedestrian seating area. That was done at the suggestion of the City. These are all things that they did at their site. They spent money on these investments at their site. They continue to spend a lot of money to maintain all of these features as well. These represent capital investments that were made at the time of initial construction. They also represent investments that are on-going at the site. Across the intersection, their competitors at Chevron have also set a high aesthetic bar. At the Chevron, what has occurred is they have constructed their building which they see here in this slide so that it faces into the interior of the shopping center. The front of the Chevron is actually the back of the building so you don't see any of the gas operations at the Chevron and in addition they put landscaping out in front of the building on the street frontage. They also were stuck by the City with an expensive initial investment that requires on-going capital costs. Now, here comes the final corner of the intersection; the last business in. One would think that the City would hold them to the same high standards or even perhaps a higher standard that had already been set for the other 2 existing businesses that are at the intersection. Instead, at this juncture they are now getting a simple gas canopy with some architectural embellishment. They are getting no additional landscaping on this site whatsoever. The aesthetics of it all are bad, enough just to analyze on their own but what you have to do is step beyond that and think about the financial impact on the businesses. Remember, they are talking about business here, gasoline, where you have to post your price right out on the corner for everybody to see and all they have to do is cross the street if they is a couple pennies difference between business A and business B. When business B doesn't have to do what business A did, you have given them the financial advantage and so the competition becomes unfair because of the lack in aesthetic improvements on the site. They think it is odd that they get a design award from the City but Fry's gets to get away with a less expensive capital investment in the community.

The main thing he wanted to talk about was the promise that Fry's made when they came into the community. He said he was going to follow the PowerPoint presentation documents that they had in hard copy because the screen is not displaying all of the slides that they have. This is the most important part of their presentation and he wanted to make sure they get through it all

completely and accurately. He showed the first slide. He said this was a comment that was already addressed during the remarks by Eddie just a moment ago. They talked about the murkiness versus the clarity of the promise that was made in February of 2001. This was the promise that was made in February of 2001 by Fry's which was the applicant in that case, stipulation no. 30. 'A gas station shall be prohibited on the subject parcel'. That doesn't seem to be very murky language to him. It seems to be very clear language. What he thinks Staff was talking about when they said the language was murky was whether they needed a zoning case or a use permit application, which is why the Staff originally routed the applicant into the use permit process subsequent to them triggering a $\frac{3}{4}$ vote. He told the Chairman that he asked the right question of the Staff, which is there a $\frac{3}{4}$ vote on this case. The answer is yes. The reason for that clear answer of yes is because when Staff routed this case into a use permit situation, they took away the $\frac{3}{4}$ vote. They went to the City Attorney's office and said no they needed a $\frac{3}{4}$ vote because this is a rezoning application. The City Attorney's office agreed with their position which is why this case is subject to a $\frac{3}{4}$ vote.

He wanted to talk about the origin of the promises because it pre-dates Cobblestone and Chevron's involvement in the site. The promise that Fry's made was made to the community and then to the City. This is the Staff Report from February 2001. It read: Phase 3 was originally intended to include a Fry's gas station at the corner. However, due to neighborhood opposition the gas station was removed. Further neighborhoods request the applicant agree to a stipulation 30 which prohibits the gas station on the site. That is the promise Fry's made in February of 2001. When Cobblestone opened their business, they got their zoning approval later that Fall on the basis of this promise that was made by Fry's. What is really interesting is what Fry's was up to at the very same time that they made the promise to the neighborhood. He showed the Fry's CC&R's and they were recorded in November of 2001. They were done by Fry's itself. This is section 2.3 which are the restricted uses for Fry's on the site. This is what the language says, 'gasoline stations or other vehicle fueling or recharging facilities except on Lot 3' (the corner site). So at the very same time, within a matter of months that Fry's had made the promise to the City and the community that they would not put a gas station on this site, they were recording a CC&R that expressly allowed for a gas station at the corner of the site. That is in 2001.

Fast forward now to 2006. You have a real estate market that is booming, you have a commercial shopping center at the southwest corner of this intersection and you have a vacant corner. It is very interesting that you have a vacant corner in 2006. So Fry's gets approached at that point by a bank, First National Bank. The bank said they would like to build on their site. But you will notice that the bank gets built away from the corner. He doesn't need to tell all of them that there are banks on every corner of every commercial intersection in our valley. This bank isn't on the corner. Why isn't it on the corner? What happened in 2006 to get this bank to move south of the intersection and away from the corner? This is what happened in 2006 when Fry's had the opportunity to sell some property to a bank. The City Planning Department Staff sends an e-mail to Fry's. It says, 'the proposed First Bank is to be located further south and away from that corner'. Staff will only support the approval of one pad on this site. So if Fry's still plans to develop a PAD at the immediate intersection corner, it would have to pursue City

Council approval without Staff's report if the First Bank Pad were to be approved first. He would let them decide if they want to ask the Staff about this comment to Fry's in 2006 that says they are going to recommend opposition in 2013 if you come in with something on the corner. What is really important to watch is the answer from Fry's. This is what Fry's says in 2006 when they want to sell property to the bank. 'Fry's had in fact had to forego installing a fuel center at this location'. This was driven mostly by competitive pressure with 2 other gas stations at the same intersection. So in 2006 when Fry's needs to sell the land to the bank, they once again renew their public promise that they made in 2001 to the City and say 'they will not put a gas station on this corner'.

His question to them is this and he thinks it is rooted into one of the neighbor's intuitions. The neighbors told them that they were concerned about parking. They said they were not sure there is enough parking at this site. The interesting thing about the parking at this site is when Fry's came in with this application, they recorded they had a surplus of parking, in excess of 40 spaces. They have actually identified an error in the Fry's calculations. The Staff he believes has verified that error that is in the Staff calculations. It is a 25 parking space gap in the error so the number of excess parking spaces actually drops below 20 spaces and as they already heard there are some parking spaces behind the closed gate that gets locked every night. There are 50 spaces behind that closed gate that gets locked every night. So when the neighbors come to you and tell you they have an intuition that the parking here is going to be too much, what you have to do is scratch your head and say what else could they put on this corner. The fact of the matter is that functionally speaking they couldn't put anything else on this corner at all. The one use they could put on this corner is a gas station because how many spaces does a gas station require? One. It has one employee, it requires one space. If they were to put a McDonald's here, they couldn't do it, they couldn't park it. Not possible. So the fact of the matter is it appears that Fry's has always held this site out for a gas station use. So despite the public promise they made in 2001 and the promise that they made to Staff in 2006, here they are asking for a gas station. The key thing to remember is that deed restriction from 2001 which kind of tells you what may actually be happening here which is that when Fry's needed its approval to build their shopping center, they promised everybody they wouldn't build a gas station. In 2006 when they need the bank, they promised they wouldn't build a gas station. And now everything else is built and all the money has been put in pocket and there is nothing left to be done except the corner and now they are ready to build the gas station. I don't think that is fair and that is their primary concern. He said he would be happy to answer any questions.

CHAIRMAN RIVERS asked if there were any questions of the speaker. There were none. He asked if there was anyone else who would like to speak on this item. There was none so he closed the floor and invited the applicant back up for any other remarks.

JEFF GUYETTE OF FRY'S showed a site plan that depicts a fast food restaurant on the location. A fast food restaurant or other uses could actually be developed on this location today so the comment about traffic or creating additional trips to the shopping center with the Fry's Fuel Center when they capture most of their on-site traffic, he doesn't believe is a valid argument. The 65% that he mentioned, someone said that leaves 40%. No, that is 65% that they

have documented who use their Fry's VIP card to swipe in the store and at the fuel center on the same trip. So there may be other people who don't use the Fry's VIP card in the store or at the pumps who get gas on the same trip. That number could be significantly higher; it could be that number but that number is a statistic that they do have.

He wanted to point out from the Chevron owner which he didn't mention is that Chevron is going to be partnering with Safeway to offer fuel discounts on fuel in May so this is a business where grocery retailers are recognizing the importance of a one stop shop type business. They don't offer a donut shop, they don't offer a carwash, they don't offer a lot of the services that the other businesses offer. They are requesting to build a 3400 square foot canopy on their property which is commercially zoned. One of the things that was presented this evening was a bunch of closed gas stations which kind of shocks him because if it is not about competition, why is there a map that shows supposedly Fry's closing a bunch of locations. There wasn't any Quick Trips or documentation of how many Quick Trips have opened, how many Shells, Chevrons or Circle K's have opened or how many Safeway's have opened gas stations. It just feels like an attack on Fry's when in fact there are many businesses that may have closed because they have decided to sell to make some additional profit and get out of the fuel business or someone found that property was extremely valuable and wanted to go in there and buy that corner. A lot of stations used to be developed on hard corners, which they have seen through the boom that banks have gone and bought up a lot of the gas stations from the Mom and Pop shop or what not on the corners and developed those into aesthetically community pleasing banks. So that is not all true that Fry's is closing all the gas stations.

As far as the aesthetics they worked with Staff and did probably 7 different renderings to meet the Staff concerns and match the aesthetics of their shopping center. A comment was made that while Shell has diagonal pumps because that was an aesthetic design. No, that design is because they don't have stacking for their customers and it is unsafe for their customers to get into their site. He actually frequents that location sometimes when he is coming from the south valley and he stops there to get gas or get a car wash. One of his project managers is on a first name basis with the rental car company because they rent cars from there. They are not looking to put anyone out of business. The site they developed on, they showed the CC&R's that don't allow for Fry's to develop a gas station. Fry's is the sole declarant of the CC&R's for the shopping center and what they didn't show is immediately after that declaration there was an amendment that was recorded that allows for the development of a fuel station if in the future Fry's ever decided to develop a fuel center. Also, when the First Bank went in the site was re-platted to allow for a use to be developed on the corner PAD which could be retail shops, a fast food center and many other uses that could be developed there today.

The Fry's fuel center is a canopy and an employee kiosk that they are asking to be allowed to develop as part of their plan because their fuel stations are as important to them as a meat department, a dairy department and any department going forward. It is imperative for them in their development and it is in their business plan. He knows that when Shell developed, they said that they built this very aesthetically pleasing site and received an award for it. Absolutely, that's correct but they also had to ask for variances and approvals and went through an extremely

long process because they didn't meet all the findings as well. To come forth and say this isn't about competition but it is, but it's not, they know it is about competition. They offer many services they don't; they are not trying to put them out of business. A comment was made that there is so much traffic that it is scary and there are many accidents. Then a comment was made that Chevron and Shell aren't getting the amount of gallons that they think they could be doing. Well it is one or the other. As they have mentioned, if they are servicing your customers and you are providing good customer service, you shouldn't have to worry about competition. Another thing, there are medians that meet in-bound the Chevron and there is a median in front of the Shell as well. A fuel center on this corner to allow customers the convenience and safety to be able to pull into the Fry's center instead of having to make a U-turn which the customers complained about would be a benefit to the community so there isn't this crisscrossing, driving across 3 lanes, jumping across intersections. He respectfully asks the Commission this evening to approve the Fry's Fuel Center and he appreciated their time and would be more than happy to answer any questions.

CHAIRMAN RIVERS asked if there were any questions for the applicant.

COMMISSIONER CUNNINGHAM said the Chairman indicated that Fry's has a greater discount available to their patrons on the gasoline than the Shell station across the street. Is that correct? Mr. Guyette replied that they do not have a greater discount. It is a program where they can redeem awards points at the Fry's station. **COMMISSIONER CUNNINGHAM** asked if it is the same redemption value as the Shell across the street. Mr. Guyette replied no. They can do a .10 cent at the Shell or at Fry's but at the Fry's fueling centers if you have more reward points, you can use them all at once. You could use them all at the Shell station as well but they would be taken in increments of .10 cents.

VICE CHAIRMAN VEITCH asked what has changed since the correspondence from Fry's to City Staff in 2006 indicating that Fry's had decided to forego developing the fuel center at this location? Mr. Guyette replied he was not with Fry's in 2006 and when he started in the real estate department Kroger Company had looked across the nation and at the developing competition and the need for a one-stop shop in all of their shopping centers and fuel centers. It has been their directive that they are to look at the viability of centers long term and try to develop a fuel center at each and every one of our grocery store locations.

CHAIRMAN RIVERS asked the effort for Fry's is to create a one-stop shop for people who want to buy groceries and gasoline? Mr. Guyette replied yes. **CHAIRMAN RIVERS** said that is not a new idea. Circle K came up with that idea probably 40 years ago and that is imbedded in his brain because 40 years ago he had a neighbor who was a manager of a Circle K and he was lamenting the idea of having to sell gas at his Circle K. Anyway, so this is not a new idea. He was just wondering what took Fry's so long to jump on board with this. Does he have any idea? Mr. Guyette replied he didn't. **CHAIRMAN RIVERS** said he was discussing the slide from one of the neighbors about gas stations closing near Fry's Gas Station openings and Mr. Guyette said that it would be good if he could supply us with the number of gas stations that have opened in that same time frame. Does he have information about gas stations opening during that time

frame? Mr. Guyette said he took a look real quickly through what they have presented. He used to work for Quick Trip Corporation and a lot of the locations in here and he actually attended one of their neighborhood meetings when they were showing some slides of stations closed directly adjacent to a Quick Trip station but presenting it as Fry's that had closed the station when they opened. In fact, there are a couple of locations in here that they show a closed Shell on Apache Trail. That had been closed for many, many years and a Quick Trip developed on the other side of the street and then it shows a closed Circle K. So there is a Quick Trip that came in 7 years after the Fry's that originally developed. So the Fry's had already been there for years before the Quik Trip ever developed, who was the last one in as they would say. The closed Shell on Power and Guadalupe – that is not a closed gas station. It sold to another owner who re-imaged that location and it is an open business with the car wash today so the information is invalid because somebody put the fence up because they may remodel or maybe selling to someone else because they want to retire and get out of the business. It doesn't mean that it is a closed location or it was closed by a Fry's Fuel Center. **CHAIRMAN RIVERS** asked if he had any statistics as to how many gas stations have opened. Mr. Guyette replied not over all Chevron/Shell; they don't track those. **CHAIRMAN RIVERS** asked how many years ago did Fry's decide that they wanted to go into the gasoline business? Mr. Guyette said that Fry's started developing fuel in 2001 and 2002. Fry's/Kroger put a hold on the fuel program rollout while they were reviewing their program, their partnership, liabilities, and locations. In about 2003 to 2005 they started developing more fuel centers. In 2007 to 2008 it became a priority for the Kroger Company. **CHAIRMAN RIVERS** asked when the first one opened in Arizona. Mr. Guyette said that first one opened in 2001. **CHAIRMAN RIVERS** asked where in Arizona that was. Mr. Guyette said that was Old West Highway in Apache Junction at 203 W. Apache Trail on February 14, 2001. **CHAIRMAN RIVERS** said he has been shopping at Fry's forever and he was unaware of the gas until the one opened in Chandler. He certainly wouldn't drive to Apache Junction to get his gas though. He said he was sorry he couldn't talk more about the idea that Fry's is going to close all locations that don't have fuel stations but they covered that already.

CHAIRMAN RIVERS asked if there were any more questions for the applicant. There were none. He closed the floor and looked to the dais for discussion and possible motion.

COMMISSIONER RYAN said he thinks they need to be careful as a Board not to get too involved with corporate business plans and what they do and how they change and so forth. They have all seen a lot of large businesses come and go and they end up with a lot of big shells around town but that's the way life is. He doesn't think they can get involved with the business plan of what Fry's is bringing to them. He thinks they need to look at this as a gas station on a 4-commercial corner. The 4-commercial corner has been there for a long time. So this is not new. They are not developing and not bringing in the 4-corner to the commercial. Let's not get to side-tracked with that. This is kind of an ancillary business to Fry's. The way he looks at it is he doesn't think it is going to have an impact to the vehicular circulation in the area. He does want to see a much more up-scale building and landscape in that intersection. He thinks they labored the point with Chevron and Cobblestone. In fact he was on that Commission during those times. All the variances that were given out and they are not being lenient to Fry's. Everybody has paid

the piper and they have given out a lot of different things to both Chevron and Cobblestone in return for some of the things they have done. To put things in perspective he doesn't want to get involved with the competition of it. That is not their business. It just comes down to a gas station canopy, a design and how they are going to mold that into this corner. He is assuming the parking still works. He wouldn't approve it the way it stands tonight because he doesn't think the building is very attractive. He would either send it to Design Review or back to the Staff to work out a better design both from a landscape and from an elevation standpoint. Other than that he is actually in favor of the proposal.

VICE CHAIRMAN VEITCH doesn't disagree with anything that Commissioner Ryan just said and he has no objection to taking whatever action is appropriate to bring it back to us in a different form. He is real interested in this notion of a single commercial pad being part of the concept and the idea suggested here tonight that single pad slid south and is now the bank. Now we are talking about a second pad at the corner.

COMMISSIONER RYAN said by right if he is not wrong they have the ability to do 2 pads, 1 per arterial and that has been the norm forever and ever.

KEVIN MAYO, PLANNING MANAGER, said that is sort of correct. It is not a by right necessarily. If they had it by-right they could do 2 pads and they could build this gas station without any approval. The commercial design standards limit the commercial shopping center to have 1 pad per arterial; 2 arterials equals 2 pads but it still requires design approval through Commission. When Staff went back and forth on this one with the elevations of this canopy, keep in mind when they do a gas station, any gas station that they have done throughout the city they don't design the canopy and then go design the "c" store. It is in reverse. Just like Cobblestone did, it went through the ringer and then they pull architectural elements off of that to create the canopy. If they are going to make a motion to go to DRC, he encourages the Commission to go out and really study the Fry's shopping center and figure out what architectural queues other than what are shown on the plans now, that they would want to pull from without introducing a whole new architectural style on a canopy that doesn't relate back to the center. They will find when they go out there that the Fry's Shopping Center is a very muted simple design unlike the Cobblestone which is much more ornate with all sorts of accents and embellishments. The Fry's Shopping Center just simply doesn't have that.

VICE CHAIRMAN VEITCH said in light of that he is still interested in hearing about the position on the record from the City that it would only support one pad at the corner and if the bank was developed there, would Staff support at any rate for a 2nd pad in affect at the immediate corner.

MR. MAYO said that is a hard thing to answer since the employee that wrote that is no longer with the City. They would never oppose something that is considerable under the Commercial Design Standards. If this was coming in asking for say a third pad, there are already 2 and they would ask for a 3rd they would look for that give and take. What are they getting in return for a variance to the code? He is not sure why that e-mail was written the way it was written because

even the original Fry's Shopping Center showed the future concept pad at that corner. That didn't flat out prohibit them from ever having a 2nd pad it would just come back through this process. He is not sure and he can't ask the person who wrote it since they are no longer employed with the City.

VICE CHAIRMAN VEITCH said they do have this suggestion that 2 pads are not supportable and then they have Fry's accepting that determination which to him calls in to question the viability of developing fuel at this site which is Fry's and its parent are assessed with doing; determining the viability. It is looking to him like the viability is not strong at this location.

COMMISSIONER CUNNINGHAM said she agrees with both Vice Chairman Veitch and Commissioner Ryan on the design. Yes, the Fry's is a fairly non-descript building however there are other things that could be done to enhance this site than just a canopy with uprights. A few stones around it still is not much architectural to detail. Additionally, it concerns her that in 2006 the City assured a bank and Fry's assured a bank that there would not be a service station on that corner. She is very curious as to what the bank thinks although if they had any concerns they should be here. Why would the bank look for assurance in 2006 that there not be a service station there and then now they are going to put one there.

ERIK SWANSON, CITY PLANNER, said maybe he misunderstood the e-mail but he doesn't think that was an assurance except to the bank but more dialogue between and Staff about their business plans. There is still that flexibility in there that although at the time they weren't interested in that again being 2006. He doesn't necessarily think that prohibits them from considering it further down the road. He likens it to other commercial centers looking at doing additional pads that maybe at one point in time they don't want to do it but again with the ability of going back through that public hearing process. They went through almost 3 times with those 3 neighborhood meetings. It exposes what their request is sufficiently to the neighborhood to say 'look they would like to reconsider this'. They came to us and said they would like to reconsider this. Staff didn't provide them any special favor by saying this wall is conceptually done at this point in time, no problem but rather go back through the process and get the correct input. He can't say for sure that there was an assurance made to the bank but he hasn't heard from the bank. He can't say they are in support or oppose it. He thinks if they were opposed, they would have said something.

COMMISSIONER CUNNINGHAM said again she thinks there needs to be more landscaping and there needs to be more aesthetics involved other than just a flat plan. Perhaps different levels over it would be far more attractive than one long flat canopy. There are just not a whole lot of changes in this.

CHAIRMAN RIVERS said he has several concerns about this property. The first being whether it is a legal merry-go-round or whatever is. Assurances were given by the City and by Fry's that there would not be a gas station on this corner; not only once but more than once. He is also concerned about the traffic issues brought up by many of the neighbors. He said he was going to make a motion and see where that goes.

MOVED BY CHAIRMAN RIVERS, seconded by **COMMISSIONER CUNNINGHAM** to deny DVR13-0007 FRY'S 69 FUEL CENTER. The item was denied 3 to 1 (Ryan opposed the denial). Commissioners Pridemore, Baron and Donaldson were absent.

CHAIRMAN RIVERS said before they get into Item B he called for a 5 minute recess. **CHAIRMAN RIVERS** opened the meeting again and started the discussion on Item B.

B. DVR12-0042/PPT13-0003 MUMTAZ GATED COMMUNITY

Approved.

Request rezoning from Agricultural (AG-1) to Planned Area Development (PAD) for a townhome development on an approximate 6-acre site, along with Preliminary Development Plan and Preliminary Plat approval for a 69-lot subdivision. The subject site is located east of the southeast corner of McQueen and Willis roads.

Rezoning

1. Development shall be in substantial conformance with the Development Booklet, entitled "MUMTAZ GATED COMMUNITY" and kept on file in the City of Chandler Planning Division, in File No. DVR12-0042, modified by such conditions included at the time the Booklet was approved by the Chandler City Council and/or as thereafter amended, modified or supplemented by the Chandler City Council.
2. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or homeowners' association.
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. 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 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 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 Mumtaz Gated Community development shall use treated effluent to maintain open space, common areas, and landscape tracts.

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 existing ranchette and animal privilege properties that may cause adverse noise, odors and other externalities. The "Public Subdivision Report", "Purchase Contracts", CC&R's, and the individual lot property deeds 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.
10. The following stipulations shall be the responsibilities of the subdivider/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."

- 11. 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.**

Preliminary Development Plan

1. Development shall be in substantial conformance with Exhibit 9, Development Booklet, entitled "MUMTAZ GATED COMMUNITY", kept on file in the City of Chandler Planning Services Division, in File No. DVR12-0042, except as modified by condition herein.
2. Approval by the Director of Transportation & Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Transportation & Development for arterial street median landscaping.
3. The landscaping shall be maintained at a level consistent with or better than at the time of planting.
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.

Preliminary Plat

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

MR. ERIK SWANSON, CITY PLANNER said because he didn't see the residents that were coming out to speak he said he would make his presentation relatively short and then answer any direct questions that they may have. The request is rezoning from AG-1 to Planned Area Development along with Preliminary Development Plan and Preliminary Plat approval for a 69 unit townhome development. The subject site recently underwent annexation and city initial zoning. It is located east of the southeast corner of McQueen and Willis Roads. Directly west of the site is an ADOT sub station. South is the 202 Freeway. East is vacant land zoned for future multi-family development and north is various agricultural land with homes on them that they are all located within the County.

The proposal is for a 69-unit townhome development. There are 23 buildings with 3 units per building. It is kind of an interesting site layout because of the design limitations. It presents itself as kind of a loop subdivision where a main entry provides a focal point with the community center and then there is a circular interior drive around it. There are the 3 units and the square footages range from 1800 up to just under 1900; all 2 stories and with a community center upon entering the subdivision.

They had a neighborhood meeting. There were a number of neighbors that came out. All of the neighbors were the property owners to the north and their primary concerns were not so much the request. They were actually o.k. with the request for the townhomes. Their concerns were traffic on Willis Road, what future development may mean to them, improvements to Willis Road and whether or not the City requires annexation and tying in utilities, etc. Following that they had the Airport Commission. The Airport Commission did an evaluations report and saw that there were no conflicts. Following the neighborhood there has been some dialogue with the neighbors. Again, reiterating some of their concerns with traffic, stacking at McQueen and Willis, improvements. There is also an exposed irrigation ditch on the north side of Willis which serves the property to the north. General concerns about that; all issues that would generally be

taken care of when those northern properties come in for development. When those properties come in, that irrigation ditch would be tiled or basically made an underground canal. Improvements would be made to Willis Road to make sure that it meets standards. Those are just natural design standards as annexations and developments occur.

They also passed out an addendum for the item. It addresses the sound attenuation measures due to the site being adjacent to the Loop 202. They want to make sure that noise does not become an issue. The applicant did have a Sound Study Commission. He has the results of that and can speak to it better than he. Again, as an extra measure they added this condition just to make sure that any of those noise concerns would be addressed if in fact that it found that there are noise issues. They do recommend approval and said he would be happy to answer any questions.

CHAIRMAN RIVERS asked if there were any questions for Staff on Item B.

VICE CHAIRMAN VEITCH said his questions were from page 2 of the memo. One has to do with building type 3 and a demising wall in the garage. He said this is the multi-generation unit. The garage has a wall down the center and that is to come out? Mr. Swanson replied that is correct. It would be a 2-car garage for the multi-generation unit. **VICE CHAIRMAN VEITCH** said the phrase 'each unit is required to provide 2 covered parking stalls' is a looking confusing to him in that context. **VICE CHAIRMAN VEITCH** said the other question had to do with the very small setbacks which don't provide for room to park on the driveway for guests and that seems to be substituted with the tracks down by the Community Center which he thinks has 17 parking spaces. Ratio wise it's about .25 per unit. Is that consistent with what they would be looking for? It struck him as first as being a little bit light. Mr. Swanson replied that is a good question and one that they really scratched their heads on. When you look at townhome development, they really treat them like single family so they don't necessarily look at their guest space as being provided like they would with condominiums or apartments like that. They have that kind of hesitation but really looking at it they believe that the parking provided by that Community Center solves that issue if in fact there is the issue. Really the idea that these are residents that live there, this is where they go. They will not be driving to the Community Center. That Community Center is strictly for that development and so it is not like they are going to be getting off-site visitors as well. Really, it is a matter of that servicing that area. They do believe that satisfies any concerns. **VICE CHAIRMAN VEITCH** said it is a trek from that parking area down to the east end of the development. On the other hand it's their own inconvenience that they are talking about.

COMMISSIONER RYAN said he only had one concern and that's really when this Willis Road develops out. There is only one way out and that is to McQueen Road. Would being the proximity to the San Tan Freeway preclude the City of ever having ever to put a stoplight there? Mr. Swanson said that is an excellent question and one they looked at and spoke with the Transportation Department. In short, yes, but because the traffic concerns were such a large issue raised in speaking with the Traffic Department they now control the lighted intersections where there is the freeway interchange. They have the ability if it is an issue to stage those lights so they don't have a green and a green right-of-way but there could be pauses to let those

residents out. Additionally, the Traffic Dept. looked at those capacity levels and really when they looked at it they didn't see any sort of issues even as they approach capacity for those levels heading north on McQueen. When they look at it, it seems to be more of a perceived issue albeit within reason since there is just a dead end but they don't perceive that issue right now. If it does become an issue, by all means they have the ability to look at it to see what kind of things we can do.

COMMISSIONER CUNNINGHAM said looking at the design for the Community Center it would appear that this is not just a Community Center to be used. It appears to her that it is a mosque. Is she correct? Mr. Swanson replied it is not directly a mosque per say. They have the element of a prayer hall but it is not the fully functional mosque like there is up on North Alma School at the Islamic Center of the East Valley; roughly Alma School and Erie for a location. They do have that option for prayers and things like that. **COMMISSIONER CUNNINGHAM** said assuming people buy in there, not everyone is to be a member of that religion. Would this facility be available for all of the property owners to use? Mr. Swanson said as he understands it and maybe the City Attorney can address it a little bit better when it comes to that Fair Housing, he doesn't think they have the ability to prohibit use of that Community Center if it is part of the overall development.

CHAIRMAN RIVERS said if read the Addendum correctly and going from his conversation with Mr. Mayo earlier, there is no freeway wall planned for this property. Correct? Mr. Swanson said not a freeway wall like one you would see up and down the freeway like the 16 foot, those large walls. There is going to be a perimeter wall but not necessarily one designed in that matter. By adding this, what that does is forces them to go back out, re-evaluate that and then if one is necessary they would then build it.

KEVIN MAYO, PLANNING MANAGER, said adding on to that, the condition really takes the liability off the City in the event that the neighbors come back and say it is loud and they have done their Study. It is the developer that is required to put in that sound wall. They also concurrently, which they did in this case, have that Sound Study conducted and submitted to them for review but still that condition has been on almost every residential anything up and down their freeways. They just inadvertently forgot to put that stip. in.

CHAIRMAN RIVERS said he is also concerned about the interesting colors that have been selected for this. He doesn't think that they would ever approve a color scheme like this for anything that is visible in the City of Chandler and then the big to do when the car wash on Chandler Boulevard near the Home Depot at Alma School had seemingly overnight painted itself orange and blue and there wasn't anything the City could do about that. He doesn't know if he would want to consciously approve this color palette but he will listen to see if anybody else has an opinion on that. While they are waiting he asked if the applicant is present. He was, so he asked if he would come up and address the Commission.

JALIL AHMAD, 2652 E. SCORPIO PLACE, CHANDLER said the Noise Study was done by an independent company and also they have the exemption letter from ADOT for that piece of

property. ADOT does not think they need to have any kind of a wall or barrier. The Study shows that if they adopt the standard then they don't have to do anything. On the other hand, if the City is not going to give a credit for rubberized asphalt on the 202, then they have to have a 7 or 8 feet high block fence wall at the back of this property. That would be fine with them. He repeated that ADOT has said they are exempted and they have a letter they don't have to do anything but the Study shows that if the City is not willing to give credit for rubberized asphalt, then they have to have a 7 or 8 foot fence.

As far as the as the color is concerned, they would like to point out one thing. At Chandler Boulevard and Arizona Avenue are townhomes called the San Marcos. They have the same kind of color pallet if they recall. On the other hand if color is going to be an issue, there is no reason for them not to adjust it or make a change if needed. If they have to change the color scheme, they will be able to go ahead and do it instead of using these colors. He is just saying there are buildings in Chandler that have a similar color scheme.

CHAIRMAN RIVERS said yes the townhomes he is referring to are very close to the post office on Chandler Boulevard. The remarks from the Planning Department when those went up with those colors were that they couldn't believe that those were the colors that were approved because the colors that were presented for approval were not the colors on the building. It is just kind of an interesting situation with that particular property and yes they are painted that color and he for one would have preferred something else.

MR. AHMAD said they could see the color chart and they have several colors shown so they can use any of those colors for these buildings. The architect, Nasreen Molla, pointed out the printer actually did not print well. She printed on her own printer and it comes out better and they could take a look at it.

MR. SWANSON said because there is a number of color pallets provided, if there are some that are more presentable, what he would recommend is pulling off some of those.

NESREEN MOLLA, ARCHITECT said the color came out much lighter on her printer. She showed them on the overhead.

CHAIRMAN RIVERS agreed it looked a lot different. He asked where on her color pallet is Coral Island, 6332 Sherwyn Williams? She showed it and there was a huge difference. He said there was a huge difference. In the development book it looks Persimmon and very vivid; he prefers the other one.

CHAIRMAN RIVERS asked if there were any members of the audience that would like to speak to the Commission on this item. There were none. He asked the applicant if there was anything else that he wanted to tell them before they start discussing and voting.

JALIL AHMAD said this is going to be a great project for that piece of land. They have discussed this with the City and have dealt with some of the concerns here. He thinks this is the best use of this land.

CHAIRMAN RIVERS thanked him and then closed the floor and moved to the dais for discussion and possible motion.

VICE CHAIRMAN VEITCH said that now that they have clarified that the color pallet will be less loud than their copies indicated and that the other Commissioners questions have been answered, they have 3 motions that they need to do.

MOVED BY VICE CHAIRMAN VEITCH, seconded by **COMMISSIONER CUNNINGHAM**, to approve DVR12-0042 MUMTAZ GATED COMMUNITY rezoning from AG-1 to PAD for single-family residential townhome development subject to the conditions and the additional stipulation no. 11 as recommended by Staff.

CHAIRMAN RIVERS asked Mr. Swanson if the City is going to control the traffic which will allow this intersection at Willis and willing to be able to turn left out of this community at that point. Mr. Swanson replied he may have been unclear about it but no they would not allow a left turn out because of its proximity to the freeway interchange. It would be a right out only but what they do have the ability to do is stage that light so as people are getting off of the freeway, people heading north on McQueen would have a red light and so there would be a time delay there if there is stacking on Willis Road; through the process of controlling the red light it would allow flow out on McQueen to head north. For them to head south on McQueen they would have to head north first and then do a U-turn.

KEVIN MAYO, PLANNING MANAGER, stated the City does not control the access at the intersection of Willis and McQueen. ADOT has full control. What ADOT has relinquished control over is the timing and control of the signals only. Even if the City of Chandler would like to put in a left turn here, ADOT has full control over that; at Cooper the same deal. It is not under City control for that.

CHAIRMAN RIVERS said continuing on Willis Road, there is no other exit from this Community on Willis Road than to go to McQueen. Correct? Mr. Swanson replied correct. **CHAIRMAN RIVERS** said so everybody who lives in this community will be required through their lifetime of living in this community, if they want to leave the community they have to go north on McQueen Road. Mr. Swanson replied that until future development comes in that they can take a look at other circulation patterns, correct. **CHAIRMAN RIVERS** said the next issue that he is concerned with is he has experience with living in a residential subdivision next to a freeway and had he in their subdivision and those neighboring his subdivision allowed ADOT to decide what the noise attenuation would be for his subdivision, he would have a five foot tall dirt berm out back of his house to this day. If it weren't for great community involvement and the involvement of the City of Chandler and the Mayor of the City of Chandler, they would not have the 19 foot freeway wall they now have. For anybody to say that there is no sound wall needed

for the south side of this subdivision, they are undereducated as to the realities of this freeway being this close to where they live. The fact that there is no ADOT wall planned, no indication that there will be an ADOT wall or any kind of a wall about 7 or 8 feet as the applicant stated, this development makes no sense to me. They are asking for trouble. They are putting a community which he is assuming values its quiet time into an area that will never be quiet until there is some kind of sound attenuation created for this community. That with this terrible traffic problem that is going to exist for everybody in this community, it is just a matter of are they once again trying to shoehorn something into an area when there are many other areas suited for. No sound attenuation; they have to do right-in and right-out of their own neighborhood for the entire time that they live here. He will be opposing this item. It may pass right along and that is fine but he thinks it is important to take those things into consideration.

KEVIN MAYO, PLANNING MANAGER stated that he wanted to add some clarity into the ADOT sound wall for the Hearthstone neighborhood. ADOT is an interesting animal in that they have their requirements. It is ADOT sound noise requirements that dictate wall heights, wall locations and all of that. Those requirements are heavily enforced when it is not on ADOT's nickel. When it is a developer, they'll do something. Those requirements are followed tightly. When it is ADOT's nickel and the 202 came in, he was here at the City and he remembered it, it was an existing condition that they were becoming a part of. When a new neighborhood builds next to the freeway, they have to do all those things. It takes the neighborhood when a freeway is going adjacent to it, to get involved and prompt the construction of that wall. While it would have felt from that side that ADOT has no sound requirements because they didn't want to build anything or saying that they don't have to building anything, they have their sound requirements and they enforce when there is something new coming in next to their freeway. **CHAIRMAN RIVERS** said their sound requirements aren't always in tune with what they should be. The sound requirement for their neighborhood was a 5-foot dirt berm and that is not even close. With the 19-foot wall and the depressed freeway roadway and the rubberized asphalt, it's fine. Without those items, it wouldn't be fine. When you have one entity talking to another entity and one entity is o.k. with things that are not acceptable to most people, then that is where you run into the problem. Until there is a wall promised or under construction, he doesn't feel confident putting a residential neighborhood next to the freeway.

The motion was voted on. The item passed 3-1 (Rivers opposed.)

CHAIRMAN RIVERS called for the next motion.

MOVED BY VICE CHAIRMAN VEITCH, seconded by **COMMISSIONER CUNNINGHAM** to approve DVR12-0042 MUMTAZ GATED COMMUNITY Preliminary Development Plan for a 69 unit single-family residential townhome development subject to the conditions recommended by Staff. The item passed 3-1 (Rivers opposed).

MOVED BY VICE CHAIRMAN VEITCH, seconded by **COMMISSIONER CUNNINGHAM** to approve PPT13-0003 MUMTAZ GATED COMMUNITY Preliminary Plat for a 69 unit single-family residential townhome development subject to the condition recommended by Staff. The item passed 3-1 (Rivers opposed).

6. DIRECTOR'S REPORT

Mr. Mayo, Planning Manager said they have a level of uncertainty if this was the Chairman's last meeting although it seems more likely than not. He said he wanted to take this opportunity to thank him for his service. He knows the old saying of time flies when you are having fun. He said he wasn't sure whether they were necessarily having fun or not but he's not sure where 6 years went. He has been here six years and has been a valuable service to Chandler and he wanted to thank him for it. It has been a pleasure. CHAIRMAN RIVERS thanked him for saying that.

COMMISSIONER CUNNINGHAM said she wanted to thank him for his service and told him it has been a pleasure working with him.

VICE CHAIRMAN VEITCH said he echoes that and it has been an honor to serve with him and he will leave a legacy for the issues that he has raised in the time that he has served with him and has amended his thinking more than once.

CHAIRMAN RIVERS thanked them for saying that.

7. CHAIRMAN'S ANNOUNCEMENTS

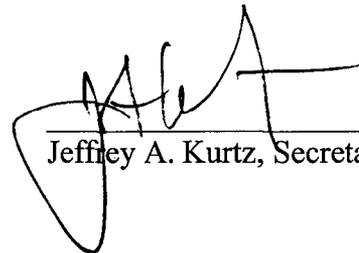
CHAIRMAN RIVERS thanked all of the people on the Planning and Zoning Commission for the last 6 years for helping him. He said he would start with Angela Creedon who was on the Planning Commission 6 years ago when he arrived and it is all her fault. She taught him how to turn on his microphone and was very helpful through his first series of meetings so that he would know when not to interrupt. Six years ago our meetings were held on the 2nd floor of the Chandler Downtown Library and to go from that venue to this one is like night and day. This is a beautiful facility and it's so much improved over the digs they had above the library. Six years does go by quickly. He was telling Mr. Brockman earlier that 6 years ago his son went into the navy and until he got out of the navy at the first of last month, he had not seen this facility or him sitting up here in front of them all. It was easy for him to track the 6 years going by because he was excited to see him come home. Again, if Commissioner Pridemore was here he would thank him for helping him along with Commissioner Donaldson and Commissioner Baron, everybody he served with and everybody he has had the experience of talking to on Staff; Bill Dermody and many, many other people and of course, Joyce and Glenn-thank you very much. He won't disappear, they will probably see him again.

CHAIRMAN RIVERS said the next regular meeting is May 1, 2013 at 5:30 p.m. in the Council Chambers at the Chandler City Hall, 88 East Chicago Street, Chandler, Arizona.

8. ADJOURNMENT
The meeting was adjourned at 7:43 p.m.



for Leigh Rivers, Chairman



Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, May 1, 2013 held in the City Council Chambers, 88 E. Chicago Street.

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

Vice Chairman Stephen Veitch
Commissioner Matthew Pridemore
Commissioner Andrew Baron
Commissioner Katy Cunningham
Commissioner Bill Donaldson
Commissioner Phil Ryan
Commissioner Devan Wastchak

Also present:

Mr. Kevin Mayo, Planning Manager
Mr. David de la Torre, Principal Planner
Ms. Susan Fiala, City Planner
Glenn Brockman, Assistant City Attorney
Ms. Joyce Radatz, Clerk

Absent and excused:

Commissioner Devan Wastchak

4. APPROVAL OF MINUTES
MOVED BY COMMISSIONER CUNNINGHAM, seconded by COMMISSIONER RYAN to approve the minutes of the April 17, 2013 Planning Commission Hearing. The motion passed unanimously 3-0 with 3 abstentions (Commissioners Baron, Donaldson and Pridemore abstained as they were not present at the meeting). Commissioner Wastchak was absent for this meeting.

COMMISSIONER PRIDEMORE said since he was not here for Chairman River's last meeting he wanted to wish him good luck and thanked him for his service. He said it is a little late but the thoughts are there. **VICE CHAIRMAN VEITCH** said he is sure they are appreciated.

5. ANNUAL PLANNING COMMISSION BUSINESS MEETING
Election of Officers:
 - A. Chairman
 - B. Vice Chairman

COMMISSIONER PRIDEMORE nominated Stephen Veitch for Chairman. **COMMISSIONER CUNNINGHAM** moved that the nominations for Chairman be closed. Stephen Veitch was voted in as Chairman unanimously 6-0 (Commissioner Wastchak was absent.)

COMMISSIONER BARON nominated Matthew Pridemore for Vice Chairman. **COMMISSIONER DONALDSON** moved that they close the nominations for Vice Chair. Matthew Pridemore was voted in as Vice Chairman unanimously 6-0 (Commissioner Wastchak was absent.)

6. ACTION AGENDA ITEMS

CHAIRMAN VEITCH informed the audience that prior to the meeting Commission and Staff met in a Study Session to discuss each of the items on the agenda and the consent agenda will be approved by a single vote. After Staff reads the consent agenda into the record, the audience will have the opportunity to pull any of the items for discussion. Item C was an action item.

A. DVR12-0044 MCQUEEN COMMONS

Approved.

Request rezoning from Planned Area Development (PAD) Mini-Storage to PAD Townhomes with Preliminary Development Plan (PDP) approval for a 20-unit Townhouse development on approximately 1.5 acres located south of the southeast corner of Ray and McQueen roads.

1. Development shall be in substantial conformance with the Development Booklet, entitled "McQueen Commons PAD" and kept on file in the City of Chandler Planning Division, in File No. DVR12-0044, modified by such conditions included at the time the Booklet was approved by the Chandler City Council and/or as thereafter amended, modified or supplemented by the Chandler City Council.
2. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or homeowners' association.
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. 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. Approval by the Director of Transportation & Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Transportation & Development for arterial street median landscaping.

Preliminary Development Plan

1. **Development shall be in substantial conformance with the Development Booklet, entitled "McQueen Commons" and kept on file in the City of Chandler Planning Division, in File No. DVR12-0018, except as modified by condition herein.**
2. The landscaping shall be maintained at a level consistent with or better than at the time of planting.
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.

B. LUP13-0001 BEEF O'BRADY'S

Approved.

Request approval of a Use Permit to sell liquor as permitted under a Series 12 Restaurant License for on-premise consumption indoors within a restaurant and within an outdoor patio. The property is located at 6045 West Chandler Boulevard, Suite 7, at the southwest corner of Chandler Boulevard and Kyrene Road.

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. The Use Permit shall remain in effect for one (1) year from the 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. Any changes in the floor plan related to but not limited to the addition of entertainment related uses such as a stage shall require re-application and approval of a Liquor Use Permit.
4. The Use Permit is non-transferable to any other location.
5. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require a new Liquor Use Permit application and approval.
6. Music shall be controlled so as to not unreasonably disturb area residences and shall not exceed the ambient noise level as measured at the commercial property line.
7. No noise shall be emitted from the televisions located within the outdoor patio or from the televisions, speakers or live entertainment occurring indoors that exceeds the general level of noise emitted by uses outside the premises of the business and further will not disturb adjacent businesses and residential areas.
8. The patio shall be maintained in a clean and orderly manner.

CHAIRMAN VEITCH said he had one speaker card concerning Item B from Jan Hoskovec and according to the card she wished not to pull the item from the Consent Agenda but to make a comment prior to the vote.

JAN HOSKOVEC, 5971 W. COMMONWEALTH AVE., CHANDLER said she wants to support this movement especially the recommendation about the noise and not having live music on the patio since this is in the same area as the former Regal Beagle that they have dealt with for 4 years. They appreciate the time and effort that has gone into looking at their concerns and are willing to approve that as a neighborhood.

MOVED BY COMMISSIONER RYAN, seconded by **COMMISSIONER CUNNINGHAM** to approve the Consent Agenda as read into the record by Staff with the revised stipulation. The Consent Agenda passed unanimously 6-0 (Commissioner Wastchak was absent).

ACTION:

C. ZCA12-0004 CITY OF CHANDLER, URBAN CHICKENS ZONING CODE AMENDMENT

Approved.

City initiative to amend Chapter 35-Land Use and Zoning of the City Code to permit residents to raise chickens on single family lots.

Upon finding the request to promote the General Plan's goals encouraging sustainable living practices, and upon finding hens to be compatible with single family residential areas, Planning Staff recommends approval.

MR. DAVID DE LA TORRE, PRINCIPAL PLANNER, stated Item C is ZCA12-0004 which is a City initiated effort to amend the City Code to allow residents to keep chickens on single-family lots.

The effort began last year when a group of residents approached the City Council and asked the City Council to change laws so that they could have chickens in their back yard. Since then Staff has researched how other cities regulate chickens. He said they will talk about that in a little bit more detail in a few minutes. Staff has also met with a Council Subcommittee earlier this year in February. Staff has also sought input from Chandler residents who spoke as well as residents who are involved with the Valley Permaculture Alliance which is a local organization that promotes sustainable living practices in the desert region that we live in and they have websites with different forums and dedicated to different topics and one of the forums is in regards to keeping chickens. They had the draft posted on their websites and obtained a lot of feedback from that; a very constructive feedback. Staff has also met with their Police Departments and Code Enforcement office and obtained input from them as well as obtained input from our City Attorney's office. The draft that they have before them today is a culmination of all the input that has been received through these steps up to this point in time. Again, as Chairman Veitch noted, there are revisions that have been made since the draft was first made available and a list of those provisions have been attached to the memo. There are 2 other revisions which they are

opposing tonight which they will state into the record at the end of his presentation. Before they get into the details of the proposed amendment, it would be worthwhile to talk about why a resident may want to have chickens and then talk about the potential issues after which they review how other cities regulate chickens in the Phoenix area. Finally, they will conclude the presentation with the details of the proposed amendment.

One of the main reasons why residents may want to have chickens is for the eggs and not just to get eggs but to get healthy eggs. There have been several studies that have shown that eggs from backyard chickens are healthier. They have less cholesterol, less saturated fats, more omega-3 fatty acids, and more vitamin A compared to store bought eggs that meet or comply with the Standard USDA requirements. Also, the residents can be assured that the eggs are not coming from chickens that have been fed hormones or antibiotics as many chicken factories have been known to do. Another benefit to having chickens is free pest control. They eat practically anything that moves. They eat insects, scorpions, lizards, snakes and he has even read reports that they have also been known to eat small rodents as well. The chicken droppings are excellent garden fertilizer but you can't take the droppings and put them directly in the garden because it has a high level of nitrogen; you have to compost it first. Composting the droppings will reduce the level of nitrogen but it will also eliminate the odors so it has a double effect – very beneficial for the garden.

Some residents may also want to have chickens to connect to nature and may be part of a larger effort to live as sustainably as possible; to grow your own food and to provide for one self. Having chickens is also an excellent way to educate children about biology, about how chickens and the cycle of life and so on, where they get their food and also about responsibility to help keep up and maintain the chickens. Believe it or not, the chickens are also used as therapy for a number of reasons including for people with autism and the elderly. He was able to find several instances of this by googling therapy and chickens because he wasn't familiar with this use of chickens previously. It is a very legitimate use and in fact they have a Use Permit that was submitted by a Chandler resident to have chickens in their home and the use permit application has been on hold pending the on-going code amendment that they are talking about today. This resident submitted in their Use Permit application 2 letters; one was from a doctor and one was from a licensed psycho therapist and both of them say this resident needed the chickens for therapeutical reasons.

When they talk about chickens, it is hard not to talk about potential issues as well. One that comes to most peoples mind is noise. When it comes to noise, the roosters are really the main culprit. The rooster's crow not only in the morning but during the day and in the middle of the night sometimes. The City currently prohibits roosters anywhere in the city and Staff is not proposing to change that. They are proposing to continue prohibit roosters anywhere in the city. Hens in comparison are very quiet and will cluck or cackle typically once a day for about 5 minutes either directly before or immediately after they have laid an egg. Chickens will lay approximately 1 egg a day but they do skip days for a variety of reasons. It is not every single day that they lay an egg but when they do lay an egg, they will make that noise – that clucking noise for about 5 minutes and then they are quiet for the rest of the day. The clucking noise is not

considered to be louder than a barking dog than a neighbor may have. In Staff's opinion having chickens from a noise standpoint would not be incompatible with the neighborhood or single-family land use.

Another issue may be odor. This may be an issue if it's not handled correctly. There are ways to address this issue by requiring that the coop be cleaned on a regular basis; that the droppings be picked up. Either removed and sealed and thrown away or composted on a regular basis again so that the droppings are not left to accumulate and produce an odor over a length of time. The chickens in of themselves do not stink but the droppings certainly could create an odor problem if they are not picked up and maintained.

With respect to health, the American Planning Association just this month published an article in their journal 'The Zoning Practice' and the article addressed the practice of having micro livestock in single-family residential areas and the author of the article states that public health scholars have concluded that backyard chickens present no greater threat to public health than ordinary household pets such as dogs and cats. As with any animal, there is a risk of disease being spread through their feces, through their droppings. That is certainly true with chickens as well. According to the Center for Disease and Control and Prevention chickens have salmonella, which is a bacterium that occurs naturally in their system and is shed along in their droppings and so the CDC, the Center for Disease and Control, recommends that people wash their hands thoroughly and do other regular sanitation methods to make sure that they don't get infected with Salmonella. Neighbors would not be at risk of being infected with Salmonella unless they too had direct contact with the chickens or with the contaminated surfaces which they could assume would be any surface where the chickens are kept.

Another health issue which may come up is bird flu. Bird flu is a theoretical risk because it has not been reported anywhere within the western hemisphere. He apologized because in his memo he stated that it has not been found anywhere in the world except for China, however, after he wrote the memo he realized that the source where he obtained that information was referring to the latest strain of bird flu which is the H7 and 9 strain. That one has only been found in China. That is the most recent one that has been in the news lately. Previous to that the older strain, H5 and 1 was reported in 15 countries in the eastern hemisphere. It was not ever reported anywhere in the Western Hemisphere. In the event that bird flu was spread over to the Western Hemisphere and the United States, neighbors would probably still not be at risk from being infected with the bird flu because according to the world health organization, the strains have been found up-to-date, human to human transmission is extremely rare in the strains that have been found. Most cases that have been reported of human infection with bird flu are as a direct result of a human having direct contact with a chicken that has been infected whether the chicken has been dead or alive.

Another issue that may come with having chickens is trespassing. In their research when they were preparing the draft, they contacted all of the code enforcement officers of all the cities that are in the spreadsheet that are attached to the memo. They asked them what kind of complaints they are hearing from residents because most of those cities do allow chickens and a larger

portion of their single-family residential neighborhood compared to Chandler. One response they got was that they do receive complaints every now and then of chickens flying around on someone else's property or crossing the street or something like that and so for that reason they are proposing a requirement which many other cities do to contain the chickens in their backyard. This could be their backyard fence, by keeping them in their coop or in some residences have chickens also clip their wings so that they can't fly. They can't fly very high anyways but if they clip their wings, it lessens the risk of them flying out of the backyard, if you have a 6 foot high wall or so.

Another issue is building safety. If they look at the picture on the bottom right of the screen, this is a picture that is found on the internet and he has no idea where this property is located. They can see an extension that is being run to the coop maybe to operate a fan in the summer or perhaps a heat lamp in the winter or maybe both. They are proposing that any coop that has connections to electricity or to plumbing, receive a building permit for that. They can make that those connections are done properly and safely.

So each city addresses all of these issue a little bit differently. Gilbert, for example, allows chickens in lots as small as 8,000 square feet. Lots that are zoned SF-8, SF10, SF15, SF35 and SF43. So if you have a lot that is 8,000 square feet and it is zoned SF-8, you can have as many as 25 chickens if you live in the Town of Gilbert. 25 chickens are allowed for the first 20,000 square feet and then an additional 25 chickens for another 20,000 feet. If you have a 40,000 square foot lot in Gilbert, you can have as many as 50 or more chickens. Roosters are allowed technically if they do not create a nuisance but he didn't know of any roosters that do not create a nuisance so in Chandler they are just keeping the same prohibition of roosters that currently exists. In Gilbert, coops are required to be setback 100 feet from any property line and as they discussed in their Study Session, this is effectively prohibitive for most properties to have chickens or to have coops in Gilbert. When he spoke with their code enforcement office, they told him that they just turn the other way and ignore that particular requirement because no one can meet it. With respect to sanitation, the coops are required to be cleaned at least twice weekly.

Scottsdale, Peoria and Mesa are all grouped together because they all allow chickens to be kept in all single-family residential lots regardless of zoning. There is no limit in any of those cities as to how many chickens they can have on those lots. They do allow roosters if they don't become a nuisance. The 3 cities however differ when it comes to setbacks. Scottsdale does not have setbacks; Peoria requires a coop setback of 20 feet from any property line. City of Mesa requires different setbacks; one for what they call an enclosure which he guesses could be a fence, 40 feet from the property line and 75 feet for the coop - that 75 feet is measured from any residence not from the property line. Scottsdale and Mesa require the coop to be cleaned twice weekly; Peoria requires it to be cleaned at least once weekly.

The City of Tempe allows chickens also on all single-family residential lots. They do have a maximum limit of 5 chickens. Roosters are only allowed in their agricultural zoning districts and their coops are required to be set back from the property line only if their coops are over 200

square feet which would trigger their structure into the definition of an accessory building. They would have to meet the requirement development standards for accessory buildings if they were over 200 square feet. If they are less than 200 square feet, no setback is required. Tempe doesn't have a weekly requirement for the droppings to be picked up but they do have a general statement that says they shall be unlawful for chickens to become a nuisance. In Phoenix chickens are allowed on lots under 10,000 square feet with written consent from adjacent neighbors. No consent is required for residents who on lots that are larger than 10,000 square feet. They are allowed 20 chickens per ½ acre and this is not prorated so if you have a 7,000 square foot lot you can have 20 chickens on your lot - again if you have written consent from your neighbors. Roosters are not allowed unless they are muted. In Phoenix coops must be set back 80 feet from any residence. Again, measure from the residence and not from the property line. It could be less if they obtain written consent from their neighbor. With respect to sanitation the City of Phoenix does not specify a number of times that you need to clean up the droppings but it does specify that chickens cannot be slaughtered on lots less than 10,000 square feet. Glendale allows chickens on lots that are a minimum of 12,000 square feet and greater. There is no limit to how many chickens they can have on those lots. Roosters are not allowed within 500 feet of any residence and the coops must be set back 100 feet from any residence. They do not specify any requirements for picking up or cleaning the coop.

Currently, the City of Chandler allows chickens in SF-33 and AG-1 or agricultural zoning districts. Generally, this equates to any lots that are 33,000 square feet or greater. There is no limit to how many chickens residents can have on these lots. A different section of our Code, Section 14 prohibits roosters citywide. In SF-33 the coops must be set back 100 feet from the front property line and cannot be any closer to the side street on corner lots than the house. In agricultural zoning districts there are no setback requirements unless the coop is greater than 120 square feet and then it needs to meet accessory building setbacks. Section 14.3 requires setbacks of 200 feet from adjacent residences unless written consent is provided and he has mentioned in the Study Session Chapter 14 is not in the legal prevue however Staff is proposing to eliminate this requirement of obtaining written consent from residents within 200 feet of the property where you want to keep chickens. They can see how the cities differ in how they regulate chickens but they were able to identify common regulations or common themes in all these regulations such as most of them require weekly maintenance, most of them do not allow roosters or roosters that are a nuisance. Most of them require minimum setbacks for coops. Most of them require enclosures to prevent chickens from trespassing onto other properties or unto possible streets.

Finally, he didn't talk about this for each city but all of the cities have some sort of reference to a public nuisance law. All the cities make it unlawful to keep chickens in a manner that creates a public nuisance. With that, they are proposing that chickens be permitted on all single-family lots regardless of zoning. Again, they are keeping the prohibition of roosters; they are proposing a maximum limit of 5 hens per lot and he will talk about in more detail how they got to the number 5 in just a few minutes. Chickens must be contained again and not allowed to trespass onto adjacent properties or in the public streets. Coops are required to be set back from 10 feet from the property line that is shared with another residential property. They are proposing that

droppings must be composted or removed at least once weekly or more frequently as necessary in order to prevent odor and the breeding of flies. Coops exceeding 120 square feet or 7 feet in height which is their threshold for what they consider to be accessory buildings would require a building permit and would need to follow a setback for an accessory building or 10 feet whichever is greater. Coops connected to utilities such as water or electricity would require a permit regardless of how big or small the coop is. Again, it would be unlawful to keep chickens in such a manner that presents a public nuisance and it references Chapter 11 for noise and Chapter 30 for odor, health and sites.

Going to back to the issue of how they got to the number 5, when they first started this process, they contacted the residences who spoke at the City Council meeting. They also asked the Valley Permaculture Alliance residents to tell them how many chickens should the city allow? How many chickens would they want to have on their property? Most of them 4 or 5 are sufficient. A couple of them said it shouldn't be any limit at all or it should be a ratio. They were originally proposing a ratio. They ended up going with a fixed number of 5 because it was in line with what the residents and the initial feedback that they got from the residents and it was also in line with the City of Tempe as well as Maricopa County who are currently going through a similar Code Amendment process and they are also proposing a limit of 5. Going back to their initial proposal they were going to propose a ratio based on lot size. They were thinking of one hen per 1500 square feet of lot area, the thought being that larger lot had more space and could have more chickens based on that amount of space that they had on their lot. To give you an idea of what this would equate to, a 7500 square foot lot which is a pretty typical size for an older neighborhood in Chandler, could have 5 chickens with that ratio. What they did is they randomly selected a portion of a neighborhood in an older part of Chandler. This is zoned at 8.5 and the size of lots in this aerial photograph that they see on the screen ranges from around 6500 square feet to about 13,000 square feet. The numbers in yellow that they see on top of the lots are the numbers of hens that they could have on those lots if they were to adopt a ratio of 1 hen per 1500 square feet. What they noticed when they looked at this example, is that there are bigger lots. There is a wide range of lot sizes and the lots that are directly adjacent to the bigger lots may be impacted. They have the risk of being impacted greater than other lots elsewhere in the subdivision because a lot right next to the big lot that says 12 could have potentially no more noise or odor from the increase number of chickens and so to level the playing fields and make it fair for everybody, they decided to go with the fixed number. Now if all of the lots in the same subdivision were roughly the same size, the strategy with the ratio might make more sense, but because there is such a range in lot sizes, they didn't think it was fair to create more of a potential for negative impact on some areas of the neighborhood versus other areas.

One last point that he would like to make is that if this Code Amendment were approved by City Council, residents who live within homeowner associations would still need to comply with the CC&R's (Codes, Covenants & Restrictions) that have been adopted as per of their HOA's. If the HOA's don't allow chickens, they would not be able to have chickens. They would need to comply with both the city rules as well HOA rules. They estimate that approximately 82% of single-family residential lots in Chandler are within HOA's. This Code Amendment could

potentially only affect 18% of the single family lots in Chandler depending on whether or not the HOA's allow chickens.

In summary, the list of regulations that they are proposing are on the screen. Staff is proposing approval. They have received a number of comments from residents both in favor and against. They have been contacted by 30 residents in favor of the proposed amendment and to-date they have received about 9 e-mails that are opposed to the proposed amendment.

There are two revisions they are proposing that he said he would read into the record and the first one is for 35-2211.3 subsection b. They are proposing to amend the wording so that it reads:

Hens shall be contained within the rear or side yards and shall not be permitted to trespass upon another property or upon any street, alley or other public space.

What they are doing is they are eliminating the test 'within a suitable enclosure (e.g. fence or chicken coop)'. They are learning that text because what they realized is that create confusion as to what is a suitable enclosure and that is not the intent of the regulation. The intent of the regulation is to prohibit chickens from trespassing on to other properties or on to the public streets. Chicken coops are required on a different subsection of the same proposal so they still need to have a chicken coop but the idea is that residents would be able to open their chicken coop and allow the chickens to roam around the back yard if their contained by the backyard wall and don't trespass on to other properties.

The second amendment or revision that they are proposing to the amendment is with Section 35-2211.1 in the first sentence under Urban Chickens. They are proposing that to be re-written to read:

The keeping of chickens for non-commercial purposes only is permitted on any lot located within a residential district the principal use of which is a single family dwelling.

Mr. De la Torre said with that Staff is recommending approval and he said he would be happy to answer any questions.

CHAIRMAN VEITCH thanked him for the thorough presentation and the great PowerPoint and interesting photos. He asked if there were any questions for Staff.

VICE CHAIRMAN PRIDEMORE said a question came up from watching his PowerPoint slide. Is there language already in the code or is there something in the proposed ordinance dealing with the slaughtering of chickens. He noticed in the one city they had to have a certain lot size. They didn't actually bring that up in their Study Sessions so he wasn't sure if that was dealt with anywhere. Mr. De la Torre replied no, that is not currently in the City Code and that is not part of the proposal. They did discuss that at a Council Subcommittee and the discussion was that it would be no different than a hunter coming home from a hunting trip and bringing a deer and butchering the deer in the backyard basically. A resident who has chickens should be

allowed to slaughter a chicken for personal consumption purposes. **VICE CHAIRMAN PRIDEMORE** said obviously they still have the language about public nuisance in terms of odor and noise. There is some coverage there but he wasn't sure if there was the actual act of it.

COMMISSIONER DONALDSON said to Mr. De la Torre that in their memo it states that most cities in the Phoenix area allow chickens in most if not all of their single family neighborhoods. The question he asked in Study Session relates to the setbacks in most of the cases of the cities that indicated the setbacks really do technically disallow chickens under approximately 40,000 square foot lots. He had mentioned that one of those cities mentioned that they kind of looked the other way with respect to the setback but he is trying to ask the question that in most cities are chickens really disallowed by the law. Mr. De la Torre said his point is well taken. There are some cities that require setbacks to the point where it becomes prohibitive to have chickens if the chicken coop is required. He didn't know if they require a chicken coop or if that is optional that you can have chickens without having a chicken coop. There might be a way to get around that. He said he didn't know. There are some cities where it becomes prohibited based on their setbacks that are required; Gilbert as they talked about but there also may be some others such as Mesa. At the same time there are other cities here in the valley that are not prohibited such as Tempe that does not require any setbacks for coops that are less than 200 square feet. Scottsdale is the same way. Scottsdale allows chickens anywhere and there is no limit or setback requirement either. He thinks it is a mix. He has not tallied up how many setbacks that become prohibitive but it looks like it is well mixed. They are just all over the place. **COMMISSIONER DONALDSON** said he had done some of the math and he just wanted to share that.

CHAIRMAN VEITCH said at this point they would go to the audience speaker cards in the order in which he received them.

RON MULLINS, 1661 E. ELGIN ST., CHANDLER said they have been in their house for 27 years and they are in the 18% which he spoke about that will probably be affected because they have no homeowners association. They have lived this. Last year they spent 8 months battling the existing code to have chickens removed from their neighbor's house who is here tonight. He can tell you it is not enjoyable. Try to sit down on your patio at night and have a cocktail or a coffee in the morning. You can smell the chickens. They do put out odor and you can hear them clucking. He has had them over his fence and left droppings on his pool so they are able to fly. He is asking them before they vote to think about sitting out on their own patio and having chickens next door because it is not that enjoyable. He doesn't have anything against chickens but not on a small lot, and not in a small community where you have a small lot and there is really no place for them to go when they get out in free range other than over the fence.

GLENN BROCKMAN, ASSISTANT CITY ATTORNEY, asked Mr. Mullins with the problems he was having, did he attempt to work through the neighborhood code enforcement? Mr. Mullins said he did and they went through the Zoning Commission and it was 8 months in the works to finally have the chickens removed by Court Order. Now they are going to let everyone that has a single-family home have chickens, how are they going to enforce that?

Chandler doesn't have the resources to go out and answer the codes. It took 8 months to resolve the issue they had. That was one case.

ANNI BEACH, 603 E. CARLA VISTA DRIVE, CHANDLER, said she is Mrs. Annie Beach and lived in a very old neighborhood, the Galveston neighborhood since 1985. She wanted to commend them for a really thorough job. She said she has never seen such a thorough job put out on anything really. He did a good job. They had some chickens back in 1987 or so; the very ones listed up there looked just like them. Mr. Beach brought home little chicks to her for Mother's Day and they raised them for many years. The Neighborhood Services was established around 1994 or 95 to address traditional neighborhoods. The first day on the job somebody drove down the alley and saw the chickens. They live on a corner, very large and nice. She had a very short fight. She didn't go on 8 months but she tried to keep them and she was informed it would be a very large fine. She only had 4; they had to go away. She never could understand the attitude that they live in a rural community basically. There were 60,000 people when they came here and there were even cows down the street with horse places. There seems to be no reason in the world they make far less mess, noise, anything than even a single dog and you know there are people that don't pick up their droppings and stuff like that. All of the points that he made up there from educational to health to enjoyment are present in chickens. She could go on and on about everyone having their individual personality. They all do. They do different things and make wonderful pets besides contributing something. She is very sorry to hear 82% of people live in HOA's. She didn't realize that. They will not have the privilege of having a few chickens and having eggs. Many of the people in Chandler are immigrants and they are used to raising their own food and this is one way they can do it. If they every new Gene Woods that lived down on Morales or Elgin Street, he was one of the very early pioneers and he had chickens and roosters and everything and she doesn't think anybody ever made him give them up. He is gone now. That is LaVonne Woods father. She truly thinks this is a time Mr. Pappay has worked tirelessly to bring this about. What his neighbor is talking about she never saw. She was over there and the chickens were air conditioned, had music and they were really truly loved and taken care of. It was a very disgruntled situation and it was too bad that neighbors came to such a pass. She said they should go for it – it's something brave.

JOE PAPAY, 3125 S. LAGUNA DRIVE, CHANDLER, said Mr. De la Torre has done quite a good job. David did most of his job for him so he only has to cover a few issues here. Not to turn this into a personal battle but his neighbor did want to bring this up. Yes, they had a court case to remove the chickens. They were removed and they have since moved to eliminate the issue. The only complaint that was against him and the chickens was there sheer existence in the yard. Based on current Chandler codes they are just not allowed. He never filed a complaint, there was never a complaint. There was never an odor complaint, a noise complaint or anything. Code enforcement came out after speaking with them many times. There was never any other complaint other than it just existed. As far as maybe a bigger picture here as Mr. De la Torre covered, to expand on that and additionally some of the complaints from his former neighbor, he says he would sit on his patio and have a cocktail and listen to the chickens cluck. At dusk, about ½ hour before dark, chickens put themselves away and go to bed and go to sleep. They are completely quiet when it is dark just as you put a sheet over a bird cage, the bird goes asleep.

Chickens do the same thing when it gets dark. So unless he is drinking cocktails at 4:00 pm in the afternoon, which is his business, he doesn't care, but he couldn't have heard them because they don't make noise after 6, 7 or even 8 if it is the summertime. As far as the other issues, they have no roosters - that is fine. If they have odors, if you have noises, if you have them running at large, those are all just pet issues in general and no different than if you had a dog do the same thing. No problem with an issue as far as having laws regulating those things. Chicken droppings without having a demonstration don't smell any more than dog droppings and actually far less. They can be used to compost. They don't throw away such as a dog's waste which then as they all know in the summer, will sit in the trash can for a week and get worse. At this point it seems some of the major complaints they have had are either people who have fears because they don't understand something. Ignorance can turn into fear so people who haven't had chickens, haven't lived next to chickens and dealt with them personally, whatever the case may be, this may be more of an educational issue than a real problem because they just haven't experienced it yet.

As far as the building regulations, those are fine. They certainly want anybody that has chickens to have them stay safe just as anybody who has dogs. They don't want them running in the street getting hit or biting people. Obviously chickens don't bite people but they wouldn't want to bother your neighbor with them as far as escaping. If they are talking about things that annoy your neighbors because they just don't want them to have them, there are a lot of things they can outlaw. Dogs will bark all night if poorly taken care of. The odor will come across your yard and wind if it is not cleaned up after. Somebody that works a night shift that drives a Harley might start it up at midnight to go to work. That is just far louder than the chicken who is sleeping. There are a lot of things that they can just complain about because they don't like this or don't like that or somebody keeps a different way of life than you do, that doesn't make it wrong or even should be illegal. There are far more benefit in the chickens than there is sometimes arguably in a cat or a dog. Some people say your cat or dog is your pet or companion. Chickens can do the same thing. In all the research he has done, he heard Mr. De la Torre say that there was actually some sort of zoning variance request for an autistic child for a companion for some sort of therapeutic program with the chicken. That is great because people do that for dogs all the time as companions. This is actually a smaller version of a companion. In the zoning laws and even in the ones they are proposing, how many Great Danes can they keep on any square foot lot. There is no regulation on that. Great Danes are much larger than a chicken and create immensely more waste but that is not regulated. They could make noise all night long and not regulate it except for the noise ordinance.

There needs to be some logic here in a way to explain how you get from point A to point B to create the restrictions that are in place now. Personally, he doesn't think there should necessarily be such a tight restriction on the number. He thinks 5 can be prohibitive to a degree also. He talked to Mr. De la Torre in great length and he understands a lot of the discussion on it. Likely 20 to 25 might be excessive in most cases too. There is no real good way that he could think of to determine the best number. The sliding scale is one that they had first put forward. 1 per 1500 square feet of lot size is o.k. but he thinks they are being prohibitive for people with smaller lots. For people with large lots presumably in some cases have a larger house, which could equal larger family, more kids, and the need for more eggs. As he correctly stated, depending on your

breed and time of year and things like that, these chickens can produce different amounts of eggs. It could be 3 weeks, some 4, 5 or 6 weeks, some might be 2 weeks especially as they age. If you rely heavily on eggs in your diet or even as a good supplement to the family budget for groceries, you can eat a lot more eggs and spend less on groceries. If they have a large family, they can produce that many more eggs and apparently also slaughter chickens. He wasn't aware that was going to be part of it. If you are interested in slaughtering chickens, that could be an issue too as far as food goes. So he thinks 5 is overly prohibitive. He doesn't know that 25 is necessarily the case but he thinks they do have to take into consideration and maybe moving that number upward some because of larger families having a greater need for more eggs. He thinks as far as the odor, noise and those things, those are covered under just general code violations. He can't run his saw in the middle of the night just as you can't have a dog barking all night, just as you wouldn't want a rooster crowing all night.

He thinks it is pretty solid what they have put together. He thinks 5 is a good starting point although he thinks they can do a little better than that but he thinks the rest of it is very solid and he would be happy to see this pass.

RENU KAUR SIDHU, 1082 W. ORCHID LAND, CHANDLER, said she is a Chandler resident and she also works for the Valley Permaculture Alliance. She thanked the Commission for hearing this issue. She thanked David de la Torre for all the work he did on this. She is one of the 82% that lives in an HOA so years ago when she wanted to get chickens and looked at those laws. It was confusing so she looked at the city laws and found out that it was prohibited. She sat on her hands for a while. It is something that is meaningful to her. Everything he went over as far as the health benefits is great. She is an organic gardener. Everything they have heard over the past decade about raising your own food and eating local and using all these pesticides, the same thing carries over to raising your own chickens. Her biggest point of contention is she wants these laws to be usable and reasonable and to her that means not having setbacks that are prohibitive. Also, not having too many chickens on a lot that doesn't support some of these numbers of 25 and you are on a postage stamp size lot. She thinks that's too many. That being said she does think 5 as a blanket number is too few. She would love to see a sliding scale in place; something more along the lines of 1 per the 1500 square feet. She wants these to be usable and reasonable. She wants people to take care of their children and their dogs and their chickens and themselves and to be responsible and tidy. She thinks people as a general rule of thumb who want to raise chickens in this area, and she knows a great number of them through Mesa, Phoenix and the rest of the valley, really take great care of them. They really love their animals and she thinks it is the exception where it is a problem. Just like with dog owners, it is generally the exception. Most dog owners are great. Most people who want to have chickens are going to also have very high standards. She is glad that this is moving forward and would like a little more time and thought on the number 5 being a maximum.

SHEILA PAPAY, 3125 S. LAGUNA DR., CHANDLER indicates that she is in favor but does not wish to speak.

JEFF PEIFFER, 5831 W. FOLLEY ST., CHANDLER indicates that he is favor and does not wish to speak.

LISA DEPASQUAL, 314 W. CURRY ST., said she is in favor and has offered the comment, 'she is in favor of a well regulated flock' and indicated she does not wish to speak.

LAURA PEIFFER, 5831 W. FOLLEY ST., CHANDLER said she is in favor but does not wish to speak.

MARGIE ALDRICH, 3207 N. CARRIAGE LANE, CHANDLER, said eggs are very nutritious and good quality. If you have done an egg test between an organic egg, an egg that has been raised in the back yard and the ones in the grocery store, there is no comparison; the flavor and everything is just excellent. You know what is going into it because you know where they have been. The bird waste is excellent in the composter. She has done it in a side by side comparison between herself without any birds and her friend who has birds, and her compost goes super-fast. It is a month for her to go and 3 months for her to go so it is excellent for the garden. It is true about the noise and the birds and the dogs barking. She hears her dogs 4 doors down barking all night long whereas you don't hear any chickens when she goes to her friend's in Gilbert. She is an organic agent; myorganicagent.com. She would love to have chickens and be able to throw them on her website as well.

RALPH BREKAN, 3404 N. MEGAN STREET, CHANDLER, stated he is very impressed with this as it was very thorough. He thanked the Valley Permaculture Alliance for everything they have done to expand this and the knowledge about it. Quite frankly, he had chickens and would like to have chickens again. His neighbor complained his dog was barking. The City came for the noise complaint and found the chickens. Now he has the dog under better care. The reality is the chickens weren't the nuisance. Chickens are no bigger of a nuisance than any other pet so he really does find this very impressive. He thinks everything here is laid out very well. He lives on a smaller lot so the number is not prohibitive to him. He would keep 4. They like to be in pairs but 4 to 6 on a small lot is not unreasonable and if they need to make concessions for larger lots, that is also reasonable.

CHAIRMAN VEITCH said if there is no further comment from the audience he would close the public portion of the hearing and open up the floor for discussion by the Commission for a possible motion.

GLENN BROCKMAN, ASSISTANT CITY ATTORNEY, said he doesn't know how this is going to turn out but to the extent that it was to be voted for approval, it would helpful from an interpretive standpoint in the future when they are all gone and somebody else is trying to understand this, to make clear whether or not they are allowing through this ordinance not only the raising of chickens but also the slaughtering of chickens. He said he doesn't care which way they go on it but it would be helpful if it could be made clear. Secondly, the original proposed language of 35-2211 was for the keeping of chickens for personal consumption. Maybe that needs to be changed to personal use or something of that nature. He knows that the revised

language is going to be non-commercial use. That seems to him to be a broader concept than personal consumption and what he heard here from the speakers in favor of the proposal, they all seem to justify the chickens on the basis that they were going to be used for some sort of personal use. It's up to them what they want to do with that. He thinks there is more potential for abuse. For example, if somebody were to be able to have 20 chickens and they only had a family of mother, father and 1 child that they could create an egg producing factory not on a commercial basis but for distribution and that is really not what the original language was suggesting. **CHAIRMAN VEITCH** asked Mr. Brockman if he was more comfortable with the personal consumption language. Mr. Brockman said either personal consumption or personal use because it is kind of an odd thing to say 'keeping of chickens for personal consumption'. That seems to eliminate the eggs all together. He doesn't want to do that.

CHAIRMAN VEITCH said they also should clarify what the status of the slaughtering activity is although he thinks that has been answered at least once by David and his comments. Perhaps when they get to the motion stage if they could make clear what they mean with respect to slaughtering and if there is interest in further amending 35-2211 – one, to go back to personal use or personal consumption rather than non-commercial purposes or whatever those words were. It would be appropriate to include that at that point as well. He asked if there were any comments or discussion from the Commission.

COMMISSIONER DONALDSON said he had a couple thoughts he would like to share. He said he doesn't have the ordinances in front of him from the other cities but again he tends to disagree with the statement that most cities in the Phoenix area allowing chickens in most if not all of their single family neighborhoods. From what he can see coops and enclosures are required and setbacks would accomplish approximately 40,000 square foot lot size in order to have chickens in 4 out of the 7 cities that have been used for the information that they have in front of them. He thinks that is a lot closer to their current code which is at 33,000 square feet. He thinks if they are going to use the other cities as examples, he thinks they need to be clear that their laws according to what they have in front of them, do prohibit chickens or at least practically and technically prohibit chickens under 40,000 square feet in 4 out of the 7 cities. It is on his mind quite a bit because enforcement and ordinances shouldn't be in place to look the other way. They are supposed to be there to help us in our cities as citizens. They have barking dog laws and they have police and code enforcement officers out there enforcing their current codes and laws and they are busy with those things. He thinks a lot of looking the other way basically comes from not enough time in energy and resources to be able to accomplish enforcement of their current ordinances. Allowing chickens in a more concentrated neighborhood and more dense areas he thinks would increase the neighbors policing our ordinances, which is already a very heavy load on the citizens at this point. He has always been involved in neighborhoods and property rights but also in property rights of the folks that may have to police their own city ordinances. He thinks they need to look at this, as they have some things that are really similar to most of the cities that have been used in our information and he thinks by loosening up those rules. He thinks they are opening us up to not necessarily responsible pet owners, but the ones who are not responsible.

In not allowing roosters, he is picturing somebody bringing in hens from another location and a fertilized egg results in a rooster, what happens to that animal. How is disposed? How is it treated? Our County shelters are full of abandoned, unwanted animals. What is going to happen? Are they going to drop this animal at the end of McClintock Road? May be the agency that has been a big help on this study, might have some information and maybe it is an education process. He said those were his general thoughts and he would be interested in what the rest of the Commission has to say.

COMMISSIONER RYAN said he wasn't going to be a very popular guy today. Dogs and cats are pets typically. They will sleep with you inside your house. He doesn't see chickens sleeping inside your house. They are not considered pets, it is a farm animal. He doesn't think raising chickens is going to be a huge problem because most HOA's aren't going to allow them. He does see an ordinance like this that is going to end up being a bit of a problem. Because where there is a hole that you didn't think about filling, they are going to end up sitting up here and trying to referee between two neighbors that don't agree with the chicken ordinance. Regardless of every other city in the valley having an ordinance, he just doesn't believe they need one. They have gone this long. He said David did a great job and up until about 10 minutes ago he was going to vote his way on it but he just got to thinking that chickens are farm animals, they carry diseases, they are dirty and they are not like a house kept animals. That is the way he looks at it.

VICE CHAIRMAN PRIDEMORE said overall he doesn't have an issue with what is being proposed here tonight. Is he going to take advantage of it himself, no. Does he feel that the benefits outweigh the negatives, right now he would probably say yes. He lives in an HOA neighborhood anyway. Regarding the number of chickens, that was one of the questions he had coming in here tonight. He thinks he is o.k. with 5 right now. The sliding scale while on the surface sounds good, even as David's slides show even in a typical neighborhood, the number varies significantly even through a neighborhood and he thinks that would add some undue burden in terms of enforcement. He is o.k. with the number 5. Also, he would almost consider this a trial program assuming that this does go forward and is approved by Council. To him they start with 5 and see how it goes. If over time they don't have a significant number of complaints, maybe then they could move to change it. This is never written in stone. To him it is temporary until they kind of find a better way or they get more data. He hears and sympathizes with some of the people that have dealt with this closely already but he thinks now the fact that they are going to have the ordinances covering the noise and the odor, there is something now through the law to fall back on and he would hope that is not putting an undue burden on other city services. Right now he is not convinced that it would. Again, if it bears out differently over time, they will relook at it. The issue slaughtering he brought up earlier, he agreed with Staff's comments. He doesn't see any difference in slaughtering a chicken on your property than a hunter bringing back a deer or a javelin and doing the same thing. To him again, the ordinances that would cover noise and the nuisances would cover that as well so he would say slaughtering would be allowed. He doesn't know if they need to add that formally but he would be in favor of it in that case. Again he doesn't see himself ever raising chickens but he doesn't have an issue with someone that would. The reality with the HOA's is that it really is what governs the majority of Chandler; he thinks they are talking about a very small area. He is willing to give it a try.

COMMISSIONER CUNNINGHAM thanked everybody for being here this evening and said David de la Torre did a great presentation and thanked him for his work. For years she has sought fresh eggs to feed his family. Just on a taste level alone, they are extraordinary. She is an egg fan and she didn't use to be. She continues to seek out fresh eggs from neighboring cities and looks forward to being able to purchase them from someone in the City of Chandler. As a barter system, she'll trade some sewing or something else and they can give them some of their eggs. She would appreciate that there was a sliding scale for a number of household members and size of lots. There are many large families who bought homes in areas that could have chickens to help feed their families and they bought large lots. If they are not able to have enough chickens to feed their families, it really isn't going to benefit them a whole lot. Their children will be healthier from having their own fresh eggs. Their food that they try to grow themselves is far more nutritious and it just seems to her they need to address that. That being said it is better to go for something than to get nothing. She said she will be in favor of this and will watch it closely and see what troubles it may bring or what solutions it may bring but she thinks it is a move on behalf of the citizens of Chandler to try and create a healthier environment. One that perhaps did exist when Chandler was first created and when households had their own chickens and had their own cows and their own goats and their own pigs and yes they weren't in a 7500 square foot lot or less. They had larger lots but people did grow their own food and they didn't rely on steroids and they didn't rely on pesticides to keep their family healthy. She thinks for that reason Chandler is making a move in the right step, a forward move in looking at the past and realizing that our past was not so bad and our future looks horrible if they don't start realizing the errors of our current ways. She will be voting for this.

COMMISSIONER BARON said he actually had a question for David. There is a lot of dialogue how they came up with the data and what city has this and what city has that. There is a ton of information and he did a great job. There is so much back and forth right now about how it is going to be regulated and are there problems and if there are problems, how do they deal with it. He guesses his question really stems from in all of the research that he did, did he look at how other cities have dealt with issues or if they have issues and if they did, are they significant issues or just neighborly disputes. What data did he uncover, if any?

MR. DE LA TORRE, PRINCIPAL PLANNER said that was an excellent question and they had that same question. For that reason they contacted the Code Enforcement offices of all the cities that are listed on that spreadsheet that was attached to the memo. We expected there to be a long list of issues and long list of complaints and a very strong opposition from the Code Enforcement offices but they did not get that. Scottsdale is an example where there are no limitations as to how many chickens you can have. There are no requirements for setbacks and he was really expecting their Code Enforcement office to give him dim or dire views of the situation over there but that was not the case. They said they hardly get any complaints and when they do, it is maybe noise or maybe a chicken on the loose or something like that but what they conveyed to him was that it was not a big deal and that when issues do come up they are able to resolve them through their Code Enforcement.

COMMISSIONER BARON thanked David and said that was kind of what he suspected. He thinks a lot of it is just change and sometimes change is hard to swallow and he personally doesn't see any issue with the proposal as written and he will be in favor of it.

CHAIRMAN VEITCH said he doesn't live in an HOA neighborhood and lives in what they call in Chandler a traditional neighborhood, which he thinks has a nice ring to it. He is not particularly worried about this. He thinks five is a reasonable number to begin with and maybe they end there too but it seems like a good place to start. He thinks Vice Chairman Pridemores comments build an adequate record he hopes for the City Attorney's office with respect to how slaughtering is being addressed or rather not addressed in the ordinance. Having heard the attorney's comments he has flip flopped himself and thinks personal use is a better terminology in Section 2211.1 than non-commercial purposes was. He confessed that was him practicing law without a license which he sometimes wants to do but he stands corrected and would urge that if anyone makes a motion to recommend approval of this, that language change be built into the motion. If there are no further comments, he said he supposed it is time to consider a motion. There is one provided in the memo if it is Commission's wish to recommend approval, which can be modified to the discussion that they had there.

VICE CHAIRMAN PRIDEMORE said using the language that they have front of them he made a motion to recommend approval of Draft Ordinance 4449 including the revisions listed in the attached list of revisions as presented in case ZCA12-0004 URBAN CHICKENS ZONING CODE AMENDMENT as recommended by Planning Staff with the change to 3522 to 'Personal Use' as previously stated. This was seconded by **COMMISSIONER CUNNINGHAM**.

DAVID DE LA TORRE asked if he could clarify that the other revisions that he read are also included in that motion and he said he would be happy to re-read that in for the record. **CHAIRMAN VEITCH** asked the revisions that were attached as well as those that were read in tonight? **DAVID DE LA TORRE** replied correct. **VICE CHAIRMAN PRIDEMORE** asked if David could go ahead and restate it.

DAVID DE LA TORRE said the first revision is revision to 35-2211 subsection 3, subsection b and it shall read:

Hens shall be contained within the rear or side yards and shall not be permitted trespass upon another property or upon any street, alley or other public place.

Revision no. 2 is revising the wording for 35-2211 subsection 1 which is re-written to read:

The keeping of chickens for personal consumption only is permitted on any lot located within a residential district the principal use of which is a single family dwelling.

CHAIRMAN VEITCH said he thinks they had a consensus around 'personal use' rather than 'personal consumption'. **DAVID DE LA TORRE** said he was right. **CHAIRMAN VEITCH**

said it was to avoid a possible distinction between the chicken and the egg. He said somebody had to say that at some point and he is glad that he got that opportunity.

CHAIRMAN VEITCH asked if there was any further discussion. Hearing none he took a vote. The item passed 4-2 (Commissioner Donaldson and Ryan opposed). Commissioner Wastchak was absent. He announced that this will go to the City Council on May 23, 2013 to be considered.

7. DIRECTOR'S REPORT

8. CHAIRMAN'S ANNOUNCEMENTS

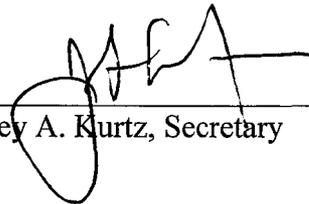
CHAIRMAN VEITCH said the next regular meeting is May 15, 2013 at 5:30 p.m. in the Council Chambers at the Chandler City Hall, 88 East Chicago Street, Chandler, Arizona.

9. ADJOURNMENT

The meeting was adjourned at 6:56 p.m.



Stephen Veitch, Chairman



Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, May 15, 2013 held in the City Council Chambers, 88 E. Chicago Street.

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

Chairman Stephen Veitch
Vice Chairman Matthew Pridemore
Commissioner Andrew Baron
Commissioner Katy Cunningham
Commissioner Phil Ryan
Commissioner Bill Donaldson
Commissioner Devan Wastchak

Also present:

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

CHAIRMAN VEITCH officially welcomed Commissioner Wastchak to the Commission.

4. APPROVAL OF MINUTES
MOVED BY VICE CHAIRMAN PRIDEMORE, seconded by COMMISSIONER CUNNINGHAM to approve the minutes of the May 1, 2013 Planning Commission Hearing. The motion passed unanimously 7-0.
5. ACTION AGENDA ITEMS
CHAIRMAN VEITCH informed the audience that prior to the meeting Commission and Staff met in a Study Session to discuss each of the items on the agenda and the consent agenda will be approved by a single vote. After Staff reads the consent agenda into the record, the audience will have the opportunity to pull any of the items for discussion. There were no items pulled for action.

A. DVR13-0008 MESQUITE GROVE MINI STORAGE

Approved.

Request action on the existing Planned Area Development (PAD) zoning to extend the conditional schedule for development, remove, or determine compliance with the three year schedule for development or to cause the property to revert to the former PAD zoning for C-1 neighborhood commercial uses. The existing PAD zoning allows C-1 uses and a self-storage/warehouse/moving establishment. The property is located north and east of the northeast corner of Gilbert Road and Riggs Road.

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

B. PDP12-0022 SONIC DRIVE-IN RESTAURANT

Approved.

Request Preliminary Development Plan (PDP) approval for freestanding monument signage within the planned Olive Tree Plaza commercial center located at the southwest corner of Arizona Avenue and Germann Road.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "SONIC DRIVE-IN RESTAURANT", kept on file in the City of Chandler Planning Division, in File No. PDP12-0022, 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.
3. Tenant panel lettering and logos shall be routed-out push-through creating dimension from the face of the sign approximately 3/4-inch.
4. **Upon construction of a freestanding multi-tenant monument sign along Arizona Avenue as part of the larger center, the free-standing Sonic sign, Sign C, shall be removed.**

C. PDP12-0023 ARIZONA-ELLIOT CENTER

Approved.

Request Preliminary Development Plan (PDP) approval for freestanding monument signage and building signage within the planned Arizona-Elliott Center located at the southwest corner of Arizona Avenue and Elliot Road.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "ARIZONA-ELLIOT CENTER", kept on file in the City of Chandler Planning Division, in File No. PDP12-0023, 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.

3. Multi-tenant panel lettering and logos shall be routed-out push-through creating dimension from the face of the sign approximately a ¼-inch.
4. **Extend the cultured stone element to base of 14-foot sign.**

D. PDP12-0025 ALLIANCE BANK

Approved to continue to the June 5, 2013 Planning Commission Hearing.

Request Preliminary Development Plan approval for building architecture and site layout for a bank. The subject site is located at the southwest corner of Ray Road and the Loop 101 Price Freeway, within the Park at San Tan development. **(REQUEST CONTINUANCE TO THE JUNE 5, 2013 PLANNING COMMISSION HEARING.)**

E. PDP13-0001 THE ESTATES AT ARBOLEDA

Approved.

Request Preliminary Development Plan approval for housing product for an eight lot subdivision. The subject site is located west of the southwest corner of Alma School and German roads.

1. Development shall be in substantial conformance with the Development Booklet, entitled "THE ESTATES AT ARBOLEDA" and kept on file in the City of Chandler Planning Division, in File No. PDP13-0001, modified by such conditions included at the time the Booklet was approved by the Chandler City Council and/or as thereafter amended, modified or supplemented by the Chandler City Council.
2. Compliance with original stipulation adopted by the City Council in Ordinance No. 3751, in case DVR05-0035 ARBOLEDA ESTATES, except as modified by condition herein.
3. The same elevation shall not be built side-by-side or directly across the street from one another.
4. Lots 1 and 8 shall be restricted to single-story homes.

MOVED BY VICE CHAIRMAN PRIDEMORE, seconded by COMMISSIONER CUNNINGHAM to approve the Consent Agenda as read into the record by Staff with the amendments noted. The Consent Agenda passed unanimously 7-0.

6. DIRECTOR'S REPORT

Mr. Kevin Mayo, Planning Manager, said there was nothing to report this evening.

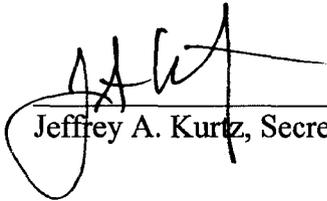
7. CHAIRMAN'S ANNOUNCEMENTS

CHAIRMAN VEITCH said the next regular meeting is June 5, 2013 at 5:30 p.m. in the Council Chambers at the Chandler City Hall, 88 East Chicago Street, Chandler, Arizona.

8. ADJOURNMENT
The meeting was adjourned at 5:36 p.m.



Stephen Veitch, Chairman



Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, June 5, 2013 held in the City Council Chambers, 88 E. Chicago Street.

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

Chairman Stephen Veitch
Vice Chairman Matthew Pridemore
Commissioner Andrew Baron
Commissioner Katy Cunningham
Commissioner Phil Ryan
Commissioner Bill Donaldson
Commissioner Devan Wastchak

Also present:

Mr. Kevin Mayo, Planning Manager
Mr. Erik Swanson, City Planner
Ms. Susan Fiala, City Planner
Glenn Brockman, Assistant City Attorney
Ms. Joyce Radatz, Clerk

4. APPROVAL OF MINUTES
MOVED BY VICE CHAIRMAN PRIDEMORE, seconded by COMMISSIONER CUNNINGHAM to approve the minutes of the May 15, 2013 Planning Commission Hearing. The motion passed unanimously 7-0.
5. ACTION AGENDA ITEMS
CHAIRMAN VEITCH informed the audience that prior to the meeting Commission and Staff met in a Study Session to discuss each of the items on the agenda and the consent agenda will be approved by a single vote. After Staff reads the consent agenda into the record, the audience will have the opportunity to pull any of the items for discussion. Item E was pulled for action

A. PDP12-0025 ALLIANCE BANK

Approved.

Request Preliminary Development Plan approval for building architecture and site layout for a bank. The subject site is located at the southwest corner of Ray Road and the Loop 101 Price Freeway, within the Park at San Tan development.

1. Development shall be in substantial conformance with the attached exhibits, kept on file in the City of Chandler Planning Division, in File No. PDP12-0025 ALLIANCE BANK, except as modified by condition herein.

2. Compliance with original stipulation adopted by the City Council in Ordinance No. 3622, in case DVR04-0048 SANTAN MIXED USE AMENDED, except as modified by condition herein.
3. Landscaping shall be in compliance with current Commercial Design Standards.
4. The landscaping shall be maintained at a level consistent with or better than at the time of planting.
5. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or property owners' association.
6. Preliminary Development Plan 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 Preliminary Development Plan shall apply.
7. The site shall be maintained in a clean and orderly manner.
8. The drive-thru pneumatic tubes shall be integrated into the design of the drive-thru columns.
9. At the discretion and by written notice of the Zoning Administrator, the applicant shall implement the 'contingency parking plan' as shown in the attached.

B. PDP13-0003 FINISTERRA

Approved.

Request Preliminary Development Plan approval for housing product for a single-family residential subdivision located east of the southeast corner of Lindsay and Ocotillo roads.

1. Development shall be in substantial conformance with the Development Booklets, entitled "FINISTERRA", kept on file in the City of Chandler Planning Division, in File Nos. DVR11-0038 and PDP13-0003, except as modified by condition herein.
2. Compliance with original stipulation adopted by the City Council in Ordinance No. 4352, in case DVR11-0038 FINISTERRA, except as modified by condition herein.
3. All homes built on corner lots within the residential subdivision shall be single-story, or the second-story component shall be a maximum of 75% of the building footprint and oriented to the inside lot line.
4. The same floor plan and elevation shall not be built side-by-side or directly across the street from one another.
5. For lots adjacent to an arterial street, two-story homes are limited to every third lot, with no more than two, two-story homes built side-by-side.
6. The landscaping shall be maintained at a level consistent with or better than at the time of planting.

C. ZUP12-0035 EVA'S MI AMORE

Approved to continue to the June 19, 2013 Planning Commission Hearing.

Request Use Permit extension approval to operate a wedding planning and bridal service office in a converted residence in the SF-8.5 Single-Family Residence zoning district. The property is located at 598 W. Chandler Blvd. **(REQUEST CONTINUANCE TO THE JUNE 19, 2013 PLANNING COMMISSION HEARING.)**

D. ZUP12-0037 TREMAINE RANCH VENUE

Approved to withdraw.

Request Use Permit approval to operate an outdoor event venue area within an Agricultural zoned district located at 253 E. Tremaine Drive, east of the southeast corner of Arizona Avenue and Tremaine Drive. (**APPLICANT REQUESTS WITHDRAWAL.**)

F. ZUP13-0008 WIN BEAUTY SALON

Approved.

Request approval of Use Permit extension for continued operation of a commercial beauty salon in a converted single-family residence in the SF-8.5 zoning district. The property is located at 284 S. Dobson Road, northwest corner of Frye and Dobson Roads.

1. The Use Permit shall be extended for a period of three (3) years, at which time re-application shall be required. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.
2. Expansion or modification beyond the approved exhibits (site plan, floor plan, building elevations, narrative) shall void the Use Permit and require new Use Permit application and approval by the City of Chandler.
3. The Use Permit is non-transferable to any other property.
4. Increases in on-site employment over that represented as equivalent to three (3) full time employees shall require new Use Permit application and approval by the City of Chandler.
5. The property shall be maintained in a clean and orderly manner.

G. ZUP13-0009 HAPPY TAILS PET RESORT

Approved.

Request approval of Use Permit extension for continued operation of overnight dog boarding and an outdoor area together with a doggy daycare and pet grooming business. The subject site is located at 6125 W. Chandler Blvd., Suite 1, southwest corner of Chandler Blvd. and Kyrene Road.

1. The Use Permit is non-transferable to any other property or other suites/tenant spaces on the subject property.
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. The site shall be maintained in a clean and orderly manner.

MOVED BY VICE CHAIRMAN PRIDEMORE, seconded by **COMMISSIONER RYAN** to approve the Consent Agenda as read into the record by Staff. The Consent Agenda passed unanimously 7-0.

ACTION:

E. ZUP13-0007 BETTER HORIZONS BEHAVIORAL HEALTH LLC.

Denied.

Request Use Permit approval for a behavioral health group home for up to ten residents. The subject site is located at 2184 E. Firestone Drive, within the Cooper Commons single-family residential subdivision.

MR. ERIK SWANSON, CITY PLANNER, stated this item is Item E, ZUP13-0007 BETTER HORIZONS BEHAVIORAL HEALTH LLC. The request is for Use Permit approval for a Behavioral Health Group Home for up to 10 residents. The subject site is located at 2184 E. Firestone Drive which is north and east of the northeast corner of Cooper and Riggs roads. The request is for the operation and approval for up to 10 residents for a Behavioral Health Group Home within a single-family residential home.

The home has been in operation since late 2010 when it received approval for up to 5 residents. Similar to our process for Assisted Living Homes, once a Group Home or Assisted Living Home exceeds the number of residents between 6 and 10, a Use Permit is required. In this particular case, they opened with 5 or fewer residents and have operated for a couple of years now requesting to expand that up to 10 residents.

The home is within the middle of the subdivision and therefore surrounded by single-family homes. It is important to note that to the east, a couple doors down, there is an Assisted Living Home with 5 or fewer residents and then also to the west, staff recently received a request for an Assisted Living Home for up to 5 residents a couple doors down as well. Again, the request is for up to 10 residents.

When they look at these requests, they have to look at a number of items in comparison with their zoning code and then also State Statutes. The Group Home itself per State Statute is allowed up to 4 residents per bedroom assuming that there is sufficient square footage. Each resident is required to have 60 square feet of livable space within a bedroom, 3 feet of separation between beds with a maximum up to 4 residents. As outlined in the Staff report and shown on the attached floor plan, bedrooms 1 and 2 can accommodate up to 4 residents and then bedrooms 3 and 4 can accommodate 2 residents each. Again, our requirements only allow up to 10 residents. Staff did visit the site and measured the bedrooms and they all meet the dimensions as provided in the staff packet and shown on the floor plan.

For this particular Group Home they do not see very many of these in the city. Within the past couple of years or so, they have had a few come before the Commission and Council. Those have historically been for Group Homes for minors and more specifically for minor boys. Those particular homes were approved with the Use Permit with resident count of up to 7. This particular case is a little bit different because the request is for adults and the request is for up to 10 residents. Per state allowances, the adults can be a mixture of male and female so long as

they are separated in rooms. This will be, as far as he is aware, their first Behavioral Health Group Home that is for adults. Again, as they look at these, they have some criteria outlined in the zoning code that they need to look at and how they match with the surrounding community. Some of the criteria they look at are outlined in the memo but include staffing, the uses within the home to ensure that it is only in compliance with what the proposed use is and no other uses. They look at the transportation of residents, they look at exterior upkeep, parking, and they look at calls for service to make sure that they aren't above and beyond something that they wouldn't see for other Group Homes and for the larger area.

They did have a neighborhood meeting. A number of neighbors, roughly around 25, attended. At that point in time, no support was shown for the request. Following the neighborhood meeting, he received a number of phone calls and e-mails along with Commission and Council with some strong concerns and opposition to the request. Staff is unaware of any support for the proposal. Some of the concerns that the neighbors expressed at the neighborhood meeting and then also as a follow-up via e-mail, were the exterior upkeep, parking and then also the calls for service. He has been working with our police department to address the calls for service concerns. It is something that he couldn't speak directly about but they do have police representation here tonight that will be able to speak to that. They are here for that. They have looked at the criteria and whether or not it meets the criteria outlined in the zoning code. Staff believes that it does meet the allowances. Exterior upkeep is consistent with the surrounding neighborhood. Some minor things needed to be addressed like some landscaping. Additionally, they have recently painted the home as well and replaced some windows that were deteriorating based on manufacture defects. From that standpoint they are comfortable from an exterior upkeep. For parking they have a side entry garage which generally allows for parking in the garage itself and then also the driveway for roughly 3 cars. Additionally, along Firestone they have roughly room for 2 more cars. Parking they think can be accommodated. The neighborhood has sent in some photos which he did not attach as part of the memo based on reproduction concerns showing that some of the homes or some of the vehicles have parked kind of overhanging into the sidewalk. He does have those. He has been working with the applicant and informing them that this is not something that can be done. Please have your clients, the visitors as well as counselors etc. park fully in the driveway or park out on the street, so he knows that is going to be a concern.

Again, regarding police calls he can't necessarily address those but he has been informed that they aren't anything that raise red flags from a number of calls for service standpoint. With that he said he would be happy to answer any questions.

CHAIRMAN VEITCH asked if there were any questions for staff.

COMMISSIONER RYAN said to Erik Swanson, City Planner, that he discussed how the residents anticipate living in the bedroom. There are 4 bedrooms. If they go up to 10, are there a couple of bedrooms that will be served by 3 occupants? Mr. Swanson said he has it in the staff packets with the floor plans but bedrooms 1 and 2 can accommodate up to 4 and bedrooms 3 and 4 can accommodate up to 2 residents. Within bedrooms 1 and 2 there is a flexibility to do 3 or 4

and then the other 2 bedrooms would be up to 2. **COMMISSIONER RYAN** asked is that bunk beds? Mr. Swanson said for the Group Homes they are a little bit different than Assisted Living. Assisted Living requires each resident to have 120 square feet for their bed to reside in. A lot of that is based on medical equipment, etc. In this particular case for Group Homes, both Behavioral Health and/or any other Group Homes, the idea behind the square footage are primarily dictated by the state. A lot of it happens to deal with mobility of the residents and they generally don't have those medical conditions to where they are on some medical bed or they have medical equipment. In this case for Group Homes the requirement is only 60 square feet for the bed with some separation between the beds. As they are currently operating in the home, bedrooms 1 and 2 have 2 beds and 3 and 4 have 1 or 2 beds but they are separate enough and the bedrooms are large enough to accommodate obviously more beds. **COMMISSIONER RYAN** asked if there was a lawn in the backyard. Mr. Swanson replied he believes it is just rock and then there is an outdoor patio and then an exterior gathering area.

COMMISSIONER DONALDSON asked if he knew if it is a 5-foot masonry wall or a 7-foot masonry wall. Mr. Swanson replied that historically they have been 6 foot. He didn't measure it but that is the typical standard for a subdivision perimeter wall. **COMMISSIONER DONALDSON** said the drawing that they have looks semi-official; says the existing masonry fence is 5 foot, but then notes from the meeting say 7. If it is 6, he'll take it as 6. Mr. Swanson said that historically they are 6. It depends on whether it is taken at grade.

COMMISSIONER WASTCHAK said that he noticed in their neighborhood meeting there was a question about whether or not they have to be licensed to actually operate the Group Home. Was that ever answered? Mr. Swanson replied that they have to be licensed through the State to operate. The licensing is something that is handled by the State and they are in a sense directed to be hands off with the licensing just because they have their processes. They will say are you licensed, can you provide that, etc. It is something that is licensed. The applicant is obviously here tonight so she can directly answer to that. **COMMISSIONER WASTCHAK** asked if it is licensed, he is assuming through the state. How often do they come by and do inspections especially if there are concerns that have been brought up about the operation of the home. He would like to understand that. Mr. Swanson said he didn't have the specifics about when they come out but historically it has been on an annual basis and if there are issues, those service calls or their visits are surprise visits and aren't necessarily set up. What they do is they have a whole list of items that they have to go through; if there is medical storage, separation, fire extinguishers and things like that which they check on.

COMMISSIONER CUNNINGHAM said because this is a business, do they have to have a City business license to operate this? Mr. Swanson replied that what they do is when they received request for zoning clearance letters, which is a separate process from this, and the zoning clearance letter is their way of documenting the 5 or fewer. They will get a zoning clearing in the instance of an Assisted Living Home and then ultimately in Group Homes. Once he receives those and reviews them, he then forwards them on to their Tax & Licensing dept. He doesn't know what they do from a taxation standpoint because in a sense it operates as a rental and residential. He does know they provide them with the information but what their follow up

is or recourse or licensing is something they stay out of. **COMMISSIONER CUNNINGHAM** said he mentioned the rental so if she as a landlord has a rental in the City of Chandler, she has rental tax to pay so she is presuming they would be assessed a tax on this? Mr. Swanson said he couldn't give her a specific answer to that because he just didn't know.

CHAIRMAN VEITCH asked the applicant to come and speak at the podium.

CLARISSE KAMGAING, 2184 E. FIRESTONE DRIVE, thanked the Commission for giving her the opportunity to come to them about Better Horizons. She said she will do her best to answer their questions but asked them to be patient with her. She said she prepared some remarks to make sure she covers the essential points. She said she will briefly go over what her business is and what is done. She stressed the importance of having the City of Chandler to support their request extension from 5 beds up to 10 beds. The service to the residents is provided by a clinical team with a clinical director, a nurse, a certified counselor and behavior health technicians. They are credentialed and compliant. She is also certified by the Arizona Department of Health Services. They are a limited corporation founded by herself as the majority owner and CEO and her husband, Dr. Kamgaing, is supposed to be joining her here but it was not possible. She oversees the activity of the business but it is her clinical team that is responsible for this treatment. Before she starts answering their questions, she would like to just highlight why Better Horizons, why an extension and why City of Chandler. Better Horizons was really founded to serve the mentally ill and the mentally ill are a minority in this community and deserve the right for protection. They are trying to do what is right by providing the right care to the mentally ill. This facility and over 10 beds, they will figure how to provide health care to even more people. They have lived in Chandler and Cooper Commons for the last 4 years. Chandler is friendly to family and businesses. For that reason any tax revenue from their business can go back to our city. In the future, they would like to continue growing this business in Chandler and hope to get permission along with the City Council. She would like them to think about what happens when the mentally ill do not receive care in the residential areas. They can be all day running in the streets of any neighborhood and hence a danger for them or anyone else. They can either be in the area hospital and the cost would be 10 times more than when they are in the residential setting. She would like to acknowledge that she has seen the letter from the neighbors to all of them and the Mayor. She has heard their anger. She wants to assure them that the business for mentally ill is highly regulated and Better Horizons follows all of the rules. She thinks it is time that they all address mental health. She thanked them for their attention.

COMMISSIONER CUNNINGHAM said Mr. Swanson didn't know if she had a business license through the City of Chandler as well as their State license. Does she? Ms. Kamgaing replied yes she does. **COMMISSIONER CUNNINGHAM** asked if she pays rental tax on the rent that is paid to her company. Ms. Kamgaing said yes she does. **COMMISSIONER CUNNINGHAM** asked how the home functions. Can she tell them that? For instance if she came to her because she had a problem, how would her day be? Would her rent cover her room and board? Would she be allowed to go out to work? What would it be? Ms. Kamgaing said basically they have a daily activity and the resident does not pay rent to Better Horizon. They are paid by ACCESS. They cannot walk. They are at the facility and the clinical director as well

as the counselor will do services in the daily basics. Basically, they don't pay rent and they have daily activities that they do. They have stuff they do every day. Some of the residents will take their GED classes and come back. The transportation is arranged with the clinical team. Usually service will come from different providers. If a client is to do a day activity, it will be arranged by the case manager. **COMMISSIONER CUNNINGHAM** asked so the residents don't have individual cars parking? Ms. Kamgaing said basically the residents do not have individual cars. Better Horizons has a car that is used to transport the client. It is arranged with their case manager or their clinical team. **COMMISSIONER CUNNINGHAM** said in reading their material, she is a neighbor of this home. Is that correct? Ms. Kamgaing said she lives one house down the street. **COMMISSIONER CUNNINGHAM** asked if someone was in the home permanently on staff. Ms. Kamgaing said basically staff is there 24/7. **COMMISSIONER CUNNINGHAM** said so there is a staff person living there. Ms. Kamgaing said no one lives there. They come and go. **COMMISSIONER CUNNINGHAM** said so there is no one living there but there are 5 clients in the home and staff coming 24/7.

CHAIRMAN VEITCH said he has received a large number of speaker cards – 43 if he counted them correctly. He has also received a copy of an e-mail sent to staff today by Ms. Coe-Harry which indicated that 5 would represent the neighborhood and speak on various subjects. He said they very much appreciate that. The other 38 or so will be read into the record after the speakers have concluded.

LARRY HOFFMANN, 2195 E. COUNTY DOWN DR., CHANDLER, said he owns his home with his wife and they share a common quarter of the backyard with the residents on Firestone. He thanked them all for allowing them to speak on this issue. He really appreciates this personally some of the responses they got in regards to the e-mails and letters they sent. It is nice to be heard. It is obviously of great relevance to them. He is here today representing himself and representing his wife and his fellow neighbors who have joined together as Cooper Commons Neighborhood Preservation Action Committee. If there is any doubt in regards to why they are here, he assured them is to oppose the request for the expansion of the facility in question. It is very difficult for them as they have heard about this facility to keep their emotions in check. They can assure them they are all going to try and do that tonight because if they do that, they are better served any credibility to their case and hopefully they will hear what they have to say factually and not through emotion. Please don't construe their lack of emotion for lack of passion because they are very passionate about what they are about to present tonight.

To try and keep things on a factual basis, they based their position on the Chandler Code of Ordinances and he could site the individual areas but they know them better than he does so he won't embarrass himself by getting those wrong. Basically, it gets to the point where they talked about definition and they talked about districts and the land use and zoning. They also to a look at Ordinance 3421, which was put together, amending the definition for Group Homes and Zoning Code for the City of Chandler. As he said in a letter that he sent to the Commission, 3421 really lists 7 separate items that the City considers when approving or disapproving an applicant for a permit. Consideration no. 6 speaks to screening. This consideration states that the applicant is responsible for screening or buffering any outdoor recreation area from adjoining

residences. They have had instances where this is just not the case. Whatever the reason may be, it has not been the case. His fellow neighbor, Amy Ocean will speak to her specific experiences on that after he concludes here. Consideration no. 7 speaks to calls for service. That consideration makes it clear where there is a documented history that exists and that it is the responsibility of the operator to sustain the number of these calls in a level that is consistent with that which existed in that particular property or neighborhood prior to opening the facility. That is not the case. While they may look at these, the document that was submitted today, and say it is comparable to other Behavioral Group Homes they didn't move into a Behavioral Group Home neighborhood. If they look at the areas around there, they will see there is a distinct difference between what is happening now since October or September of 2012. His fellow neighbor, Quentin Gerbich, will speak further to that and be more specific as well. Consideration no. 5 speaks to maintenance and it clearly states the applicant needs to maintain the dwelling's exterior and yards in a manner that is consistent with the neighborhood standards. Again, the facility has failed to meet the standards in this area and his neighbor, Carolee Sandrolini, will speak to specifics regarding not only the upkeep but it's relevance to the CC&R's and its relevance to the land use as well.

Lastly, we should discuss the intent of the law and by that he means what is the definition of family that allows for these types of Group Homes to enter into a neighborhood like ours to begin with. John Harry will provide perspective on that. They realize there are folks in need of homes where they are going to get treatment for the things they need to address. They are not saying that is not the case. What they are saying that a single-family home for 10 patients in a residential neighborhood where children play and they live, may not be the appropriate venue. They also think that the folks who operate them have a responsibility to operate them in a manner that serves the patients but they also need to be responsible for preserving the integrity and the safety of their neighborhood. They feel that this current operator has failed. They have failed in regards to screening and supervision which they will hear more about. They have failed in regards to providing appropriate levels of security for patients and for their neighborhood which they will hear more about. They feel they have failed to adhere to the land use requirements of the neighborhood. Again, they will hear more about that too.

They say that they are doing these things now but he contends and as a group they contend that if they are doing so only to gain access to the ability to expand to a Special Use Permit, then what does that say about them as operators. What does it say about their intentions and their commitment to the neighborhood in which they operate? What does it say about the quality of the care that they are providing to their patients? Their history is clearly a model for the manner in which they operate and they certainly shouldn't reward them with expansion for finally doing what is expected of any neighbor in their neighborhood. This is their neighborhood and they are asking them to help them protect it. They are asking them to help protect their investments. They are asking them to help protect the safety of their friends and families. They are asking them to help them protect the integrity of their Chandler neighborhood that they have tried to build. They feel like their neighborhood is under siege. One block will soon have 3 facilities and they have heard that talked about earlier this evening. They can take that density issue to Council maybe at another time because this is obviously more relevant today. Until then they

ask their support in this matter by denying the requested Use Permit to expand. Their intent has been totally focused on the denial of expansion but he would also ask them to review their past history. In reading through the Chandler Code Ordinances it appears to him that the Zoning Administrator may suspend or revoke upon finding material not in compliance and operations that are operating in such a manner that they cause substantial detrimental impact on neighboring persons or properties. He thinks this operator falls into both of those categories. He thanked them for their attention and thanked them for their attention that they will give his neighbors as they come up and speak further on it. At the very minimum they ask that you support them and deny their wish to expand.

CHAIRMAN VEITCH asked if there were any questions for the speaker.

VICE CHAIRMAN PRIDEMORE asked where he resides relative to this facility. Mr. Hoffmann said his house is a northwest face and his backyard faces south. Their backyard butts up against his backyard by about 25% of his property. Mr. Swanson brought up a map for the overhead. Mr. Hoffmann pointed out where his house is. **VICE CHAIRMAN PRIDEMORE** said he is only one of 4 houses that directly abuts the property in question. At what point did he realize there was a Behavioral Health Facility in your neighborhood. Mr. Hoffmann said that was an interesting question. They have been told it has been here for 2 years. It may have been permitted 2 years ago but he doesn't think it started having any patients after October of 2012. The reason he says that is they had a water leak over there and it sprang into his yard and he let it go for a couple of hours thinking that somebody would catch it because somebody lived there, they didn't. He knocked on the door and nobody answered. He went over that evening and knocked on the door and nobody answered. Finally, he went to his neighbor directly behind him who knows them. He directed him to the place where the operator lives and they went down and shut down the water. It wasn't operating with patients at that point. He and his wife sitting back on their patio, have heard some interesting laughter going on over there so the area has been louder but he has not been approached by any patients. When he knew for sure that it was a Behavioral Group Home is when he got the letter. **VICE CHAIRMAN PRIDEMORE** said so there have been no other incidents from his point of view and it wasn't until the notice to expand came out that he realized who your neighbor was. Mr. Hoffman replied he didn't realize until then that he realized what it was. What he did realize was that it was different than a single-family home.

AMY OCEAN, 2185 E. COUNTY DOWN DRIVE, stated she and her husband were there. Their residence is right next to Larry and Jan Hoffmann. Three quarters of their back yard is on the other side of the privacy wall from Better Horizons. She and her husband moved there in January of 2011 with their son. Honestly, they had scouted out Chandler because they love Chandler. They were drawn to Cooper Commons specifically because of the privacy and the family atmosphere that the neighborhood appeared to have to them. Everything seemed o.k. until one evening earlier this year when she was out back on her patio and was startled and quite scared that someone was watching her. She turned to see a man who was standing on something. She could see him from the waist up and he was watching me. He did not say anything to me but she was pretty scared. She went inside the house and told her husband. She didn't know who

those new neighbors were but that is really scary. She didn't know why he was watching or what he was doing. He did not speak to her. She does have a personal account that she will be speaking to from Jody and Pao Bearden who live right next door to the facility where they were confronted verbally. She will speak to that in a few moments.

Again, she quickly went inside and talked to her husband and this is a serious issue. This is a serious concern for her because of privacy. She has a pool with a spa and they are out there quite often. She doesn't know when someone is going to peer over the wall at her and watch her and that scared her. She feels like you can never be sure about her privacy. They moved there because of the privacy and the family atmosphere and quite frankly she feels the privacy is gone. As Larry spoke to the 20 + police calls in a 6 month period to one residence in their neighborhood, to her it does not feel like a family atmosphere. She understands from reading the notes that it might be in line with other Behavioral Group Home Facilities. They might receive that same amount of police calls but in her neighborhood she doesn't know any of her neighbors who have had 20 + police calls to their home. Again, strangers looking over the privacy wall is not a private setting.

On behalf of Jody and Pao Bearden who could not be here tonight, they live at 2164 E. Firestone Drive which is right next to the Better Horizon facility. Pao explained to their group that her mother-in-law visits frequently and likes to enjoy quiet evenings on the patio. She was startled one time when she heard someone messing around in the backyard like they were moving something large around and the next thing she knows someone peeks over the fence and asked if they could borrow a cigarette. She heard them dragging whatever this piece of furniture was or something they stand on in that yard. They have done it more than once to the mother-in-law. She no longer will stay outside when she hears them dragging the item over to the fence; she knows what is going to happen. It happened to Pao as well, who is the wife and co-owner of the home with her husband Jody that she was doing some yard work in the backyard and someone came over the fence and asked if she had a cigarette. On these occasions she said they were also visible from the waist up which again violates the privacy of the privacy wall. Additionally, she stated it is not uncommon to see 5 or 6 cars parked with the overhang into the sidewalk area or park in front of her home so people visiting her have to park somewhere else on the street. The overflow of parking as her being a direct neighbor is a concern as well.

Something in the paperwork indicated that the residents have a 9 p.m. bedtime. She told them that she and her husband use their spa past 9 p.m. They like to enjoy a quiet evening in the spa and she knows there have been people outside with loud cackling laughter past 9 p.m. and smoking. She can smell the smoke. She is not a smoker and she can smell it past 9 p.m. She doesn't know what is happening there and she couldn't speak to what that is but she knows it is happening. Again, as Larry stated, they understand the needs of this type of business and to serve this type of individual in the community. However, if it is allowed to increase up to 6 to 10 residents, she can only imagine that the problems would increase to; the privacy issues, the lack of a family atmosphere in her neighborhood, police calls. It is only common sense that it would increase so that is really concerning to them. Her privacy is the biggest issue. So for these reasons, she and her husband Jan and Jody and Pao Bearden are opposed to the expansion of the

Better Horizons. Much like Larry and Jan, she would encourage them to also consider because of these violations, revoking their ability to run a group home in their neighborhood.

VICE CHAIRMAN PRIDEMORE asked when the incident she described occurred. Ms. Ocean said that was earlier this year in 2013. **VICE CHAIRMAN PRIDEMORE** said he was trying to get a handle on the number of incidents and when they occurred and he will also have a question for the applicant when she steps back up in terms of how long has this facility been working. He is actually not clear on that. He is trying to get an understanding on how long the facility has been active with patients or with clients and when these incidents are occurring to try to get an understanding of the density of incidents within a period of time. He asked if her incident was this year. Ms. Ocean replied that yes, it was earlier this year. To answer even further she doesn't remember prior to October 2012 there being residents in that home. She and her husband take their dogs out on the north end in the back yard in the evening and did not notice anyone over there prior to maybe 4th quarter 2012.

COMMISSIONER DONALDSON said she was also mentioning the other person/neighbor. Did she know when that incident occurred? Ms. Ocean said she was looking at Jody and Pao's notes. She said it happened on multiple occasions and she couldn't speak to an exact date.

COMMISSIONER BARON said he was curious on some of these incidents. He asked if anybody had actually filed a formal complaint with the police. She said she couldn't personally answer that. She just knows that she has not filed a formal complaint. She didn't know what was going on behind her, she just thought someone was looking over the wall at her one time and no she did not call the police.

VICE CHAIRMAN VEITCH said he just wanted to note for the record that the question before this Commission this evening is whether or not to recommend approval of a Use Permit for the expanded Group Home use. Any discussion of enforcement concerning the use in its existing form really isn't on their agenda and is really beyond the purview of this Commission. Obviously, some of the things that are being said might be of interest in that regard but that is not their responsibility. He asked Staff if they could speak further to the call statistics and what it is they are comparing those to in order to make the finding that the experience is essentially normal. He said he could put those words in their mouth but he is not sure they are the right ones.

MR. SWANSON, CITY PLANNER, said he couldn't speak directly to what the call was made for but the representative from the Police Dept. can explain what that particular issue was or issues were. Historically, the way these operate is any time something happens out of the ordinary or not in accordance with the schedule the call has to be made. Historically, they have only dealt with minors and so they were in school and things like that. In the instance where somebody was supposed to be home at 3:00 p.m. and it is now 3:05 p.m. and they aren't there, the operator by requirement has to make a phone call and report that resident is not there. Similarly, if they just take off or go for a walk without notifying somebody, they then also have to contact the police. A number of calls are in relation to that. There are, he believes, some other medical calls but he would prefer to defer those comments to the Police Department so

they can specifically address those. Regarding the calls for service, he did actually request that the Police Dept. look at these in comparison to the other homes and again they are in a sense consistent with those other homes. Granted, anything more than 1 or 2 calls a year is probably going to be substantial compared to the typical operations of a home but again there are some circumstances where they actually have to make the phone call. It is not necessarily a life safety situation.

CHAIRMAN VEITCH asked the Commission if they would like to hear from the Police Dept. at this point or after they have worked their way through the speaker cards. Commission wanted to go through the speaker cards.

QUENTIN GERBICH, 6870 S. JUSTIN WAY, said he would like speak to some of the safety issues and maybe he can clear up some of the police calls for service as well. He said his house is right on the corner and showed where on the map. He showed an area they refer to as a circle as it goes around the neighborhood. There is one way in here and another in here. Anybody who lives in a residential neighborhood knows everybody always goes the easiest way so everybody comes in right here (he showed on the map) including the folks from the Group Home. He said he took notes from everything being said especially a couple of comments that were made tonight by the applicant and the Commissioner. They asked if the business is paying taxes in the residential neighborhood. Does it get any clearer than that? They are a business and they are residents. She said she feels safer knowing where these people are? That is why they have a Group Home. What about them? Know they are with us and their children. He has 2 small kids and the people across from him have 4 small kids and the people next to them have 2 small kids. There are a multitude of kids just in that little bitty area where they drive from entering into the circle to the Group Home. How safe is it for them now?

The goal of Zoning and Planning regardless whether it is residential or business is to make their decisions which are based best on the community as a whole. When you are zoning for a business, you want to know what other businesses are in the area, how is it going to affect the flow of traffic, how is it going to affect the other businesses in the area so they don't have a bunch of other businesses shutting down and creating vacancies and creating crime. In this particular case by expanding this Group Home they are not doing what is best for the area. They were told in the meeting that these people do have substance abuse issues, drug treatment issue, alcohol issues and things like that. With those issues brings crime. That is just a fact. Ask any cop on the street and they will tell you that crime revolves around drug addiction, alcohol addiction and things of that nature.

They are bringing in more crime to a residential neighborhood; everything from things as small as the traffic where if they do the expansion, they have more cars flowing through the area that don't know the area whether it be guests or relatives of the patients. As those cars come in, they don't know the kids playing in the area. Houses today don't have big yards. He and his son play catch football all the time in the street. They know everybody who comes around that corner is going to slow down because they know the area. That is not going to be the case when they are introducing a bunch more traffic to people who aren't familiar with the area. They are also

introducing a bunch more people who aren't vested in the neighborhood; they are not interested in the neighborhood. If they throw a piece of trash out the window, what do they care? If they are driving quickly through the street, what do they care? It is the broken window effect; the worse it gets, the small things create bigger things which make it worse. They are all educated people so you all know the broken window affect where if they have a broken window and you don't fix it, it can lead to another broken window, which can lead to a broken bottle, which can lead to vandalism, which can lead to burglary. It just grows and grows and grows. That is what they are trying to stop here tonight – the broken window effect. If you let it expand, it is just going to create more people drawn to an area. They are now going to have 3 Group Homes in one area bringing in more and more issues. The greatest example ever was in Chicago where they had an area that was a very, very nice area. They decided to put up huge buildings and make it low income housing and let a bunch of people who had criminal backgrounds live in that area. It got so violent and so bad it had to get bulldozed. Now it is back to a park, it is back to some of the most expensive real estate in Chicago. Why, because they took the bad element out of it. If they create too much in one area, it creates an issue.

Regarding the calls for service – he can reference those. There were 20 calls for service in the circle since October. Out of those 20 calls for service none of them were at any other residence than the Group Home - all 20 calls since October. They range from anything from a missing person who comes back and it gets changed to another, to missing persons, to domestic violence, to threats, and suicide attempts. These are pretty significant calls if they think about it – even for a missing person. If his 13 year old son goes missing and he calls the police, is that a threatening issue, no. But when somebody who has a substance abuse problem goes missing, he understands they are required to call, but they need to think of it on a big scale. If they are calling because that person is missing, where are they? Are they breaking into my house, are they breaking into the neighbor's house, where are they? What are they doing? Are they getting high? It creates an issue - 20 calls for service since October. He believes Erik said that there is no other adult Group Homes in Chandler. This is the first one. They can't weigh the calls for service to this house compared to calls for service to a juvenile facility. He thinks they are a big difference.

With the 3 houses in a row it is going to create more and more traffic. He lives right on the corner and it's going to create so much traffic that you are not going to be able to back out of your driveway at some point. He is obviously exaggerating a little bit but it is more and more traffic. They are talking about double the amount of people and visitors coming into that facility plus you have the 2 other Group Homes and you have people coming in and out of the area for them.

The other thing that concerns him greatly is when they spoke to them they said that their patients had substance abuse problems and mental health issues. They had the right to pick what patients they had. Who can stop it? He can't. If it gets approved to where they can expand, what is to say they are going to expand the type of people they take because now they need to fill more beds. Is it going to turn into a situation where he can't even let his kids go outside because there is a sex offender living in there? Nobody wants to get that fire on their door. His son gets on the bus at 8:45 a.m. each morning when they take their morning walk. They get to take a morning

walk. What kind of a situation are we putting people in? Has there been something happen yet? Not that he is aware of but the potential is there. You raise the amount of people, you raise the frustration level of people living in a close knit home where they aren't allowed to do things and free to exercise their own will. They take their frustration out on something else. The bus doesn't come into the circle; it goes around the outside. Why, because of traffic congestion. If they are out for a walk just like the other day and it was witnessed by his wife, one of the people from the Group Home was walking down the street and the applicant was trying to get the person into the car. What would happen if she couldn't? What would happen if the person from the Group Home decided they didn't want to get back into the car and decided to just take off running or whatever the case may be. What is going to happen at that point? They mentioned how many people have actually called the police. They have been called on for the parking issues and he would guess to say that the issues like his wife saw the other day; she didn't call because technically there is not a crime going on for her to call the police. At what point do they start calling the police? That is the big thing. At what point does this have to get to an issue or to a level to where they do have to feel like they have to call the police every time they turn around and worry about everything every time they turn around. By at least keeping it small it helps instead of expanding it to the point where they have multiple people living in a small area getting more frustrated and more crime happening.

They claim that they search each person when they come in. When they had their first meeting to meet them, they invited some representatives from the neighborhood. They didn't want everybody obviously walking through the house. They invited some representatives from the neighborhood to walk through the house and see what it was like. His wife and another neighbor was one of those individuals. During that time one of their residents came home and they didn't see them get searched. How well are they keeping up their facility? All these things that Erik spoke about, the paint, the bushes, the windows getting fixed, is all recent since they submitted the application. The 2 worse looking homes in the entire circle are those 2 homes; theirs and the Group Home. They have only started keeping them up since they put in for the application. They only started pulling their weeds, replacing screens and things of that nature since they submitted the application. If it passes, who is to stop them from going back to their old way of doing business? There are currently 3 houses for sale on that street and their neighbor just put their house up for sale? Do they want to make this a Group Home neighborhood or a residential neighborhood?

COMMISSIONER CUNNINGHAM asked if they had an HOA. Mr. Gerbich replied they do. They were told that state law overrides HOA and there was nothing they could do about the Group Home. They were also told through scare tactics that if they told them to fix their houses, they were picking on the minority. They couldn't single them out. They had to go back and start enforcing HOA's broadly. **COMMISSIONER CUNNINGHAM** said HOA's are there to enforce the weeds, the upkeep of the home, etc. for any resident no matter what color or what operation goes on in that home. She didn't understand where that information came from. Mr. Gerbich replied that is part of the issue they are working on now – the HOA. **COMMISSIONER CUNNINGHAM** asked if the information came from the property manager. That they couldn't enforce the HOA requirement on those 2 residences but everybody

else could be. Mr. Gerbich said they were told that if they started enforcing the HOA on those 2 properties, they are singling those properties out. **COMMISSIONER CUNNINGHAM** asked if the HOA is not enforcing on the other property. Mr. Gerbich said he couldn't answer that question because he is not on the board.

VICE CHAIRMAN PRIDEMORE asked Mr. Gerbich at what point did he realize that there was a Group Facility in their neighborhood? Mr. Gerbich said to be honest he did not know that it was a Group Home until they got the flyer. He only thought it was a poorly run household. He thought they were just people who couldn't control their household and that is why the people were going there and why others were responding there. He did not know it was a Group Home until they got the flyer. Obviously because he doesn't associate with the people in the home and they aren't like a normal neighbor where he would go over and talk to them and whatnot. Therefore, he was not made aware of it until he actually got the flyer.

COMMISSIONER WASTCHAK said he had talked about traffic and they live on the corner, is he saying that he actually has seen increased traffic and if he has, have there been any issues where they had close calls. You said they are out in the street and they are playing. What would be different in the last year or so compared to prior to that? Mr. Gerbich replied that traffic has increased over the last year however he has not personally had any close calls; only because he is a paranoid driver because he lives on a corner and he is very slow to back out. Traffic has increased over the last year so therefore by increasing the amount of people in the home they are going to increase the amount of traffic as well again. It has increased over the last year from what he has seen.

CAROLEE SANDROLINI, 2183 E. FIRESTONE DR. said she actually lives directly across from this house. She has the pleasure of witnessing this house every single day when she opens her 2 front windows. She is here today to speak to them in regards to land use. Her neighbors have pretty much covered just about everything she intended to talk about so she said she will personally speak to them about her experiences. She and her husband are one of the few original owners when they built this house in 2002. Over the course of the past 11 years her street has been very quiet. This is one of the few reasons they chose Cooper Commons. Until Better Horizons moved into this home, she still hasn't received a viable explanation why Planning and Zoning deemed it suitable to move what she considers a halfway house into a neighborhood where children are being raised and where a K through 6 school is within walking distance of seriously mentally ill residents.

Currently her CC&R's states that there shall be no business ran in this community. She is a small business owner; she has 2 small businesses that she cannot run out of her home because CC&R's prevent her, but this home is allowed to do that. That is really not her point and she will pursue that legality later. She is here today to speak to them about the land uses. The increased traffic is unmanageable. She can't express how many times she has tried backing out of her personal driveway to be held up due to someone parked in front of her driveway or backing out only to realize that a car is rapidly pulling in and trying to unload or load passengers. This home houses a 2 car garage which doesn't get used. There are up to 4 more vehicles parked

in the driveway at all times and most times spilling on to the sidewalks and into the streets. Yes they block the sidewalk, they do block the street. She showed a picture of it on Sunday when they were on the sidewalk. There is no regard to what is being asked of them. She has approached the owners and asked them not to park in or near her driveway or on her driveway. On one occasion an employee yelled at me for approaching someone who was parked there for telling them not to park in front of her home. She has pulled out and hit a car that was parked across the street. It has caused so much stress within her home that she no longer opens her front 2 windows because the dogs she has bark every single day, every time somebody pulls in and out of that house. It is constant throughout the day and night. She either has to kennel her dogs or keep those blinds closed. It's made her want to sell her home. It has also made her consider finding a new home for her dogs. This wasn't part of her long term plan. This was her forever home, forever family and these are her forever dogs. She has a 7 year old son. She fears for his safety. He is only 7 and it is a huge safety concern to allow him to play outside. She doesn't like him to ride his bike or his scooter because she fears that he will be struck by a car coming into this home. There is a huge lack of regard for safety. Obviously, if you bring 5 seriously mentally ill residents into a community where there are children, you show a lack of regard and the well-being to the surrounding neighbors and children. I also don't want him approached by the residents which he has.

She believes this expansion to 10 beds will only double and increase the problem that isn't under control nor will be under control. The owners do not care about the conditions of the home. It's only been recently that they have done the upkeep. She has met Clarisse before. She lives in the two-story (showed on map). She lived there before they owned this home. The people that lived there before lost their home and went into foreclosure. She saw Clarisse one day carrying furniture down the street with her 2 children and she asked her if she was moving into the home. She told her yes. She was under the impression that they were moving from the two-story into this single-story home across the street only to later find out at her information meeting when she addressed Clarisse about living in that home and told her she lied to her, Clarisse said she didn't know who she was. Her kids have played together and her kids have been in her home. She finds that very offensive that they are hiding what they are doing. It seems sneaky to her. It is very concerning. She has to protect her son, her family and her investment. This is unbelievable that this is happening – the third on their street. She is asking to deny this expansion not just for the residents but for their children.

VICE CHAIRMAN PRIDEMORE asked Ms. Sandrolini when she first became aware that the house directly across from her was a Behavioral Health facility. She replied that it was the latter part of last year because she told her husband right around September of October. If she knew she needed to be keeping track, she would have. She did tell her husband that something wasn't right. Her neighbors weren't moving in, somebody else was moving in. **VICE CHAIRMAN PRIDEMORE** said they will just say late 2012. Ms. Sandrolini said she will say October 2012.

COMMISSIONER WASTCHAK said in one of the letters somebody talked about another Group Home for elderly care. Is that on this street as well? He asked her to point to the house where that is. Mr. Swanson, City Planner, said they are actually the blue homes shown on the

map. The 2nd home is the one that just recently came in. Ms. Sandrolini said so she has 3 on her street. **COMMISSIONER WASTCHAK** asked if they were elderly care. Ms. Sandrolini said yes they were elderly care. They have had very similar problems with parking which she addressed. They parked in front of her mailbox where her mailman can't get in. They were very polite when they went up to them. It went on for several months. She finally went up there and asked if it was a Group Home. She said yes. She asked her if she was a licensed Group Home and she said yes. She asked her to be mindful of the neighbors in the community. They have young children and the parking is unbelievable and the traffic is out of control. It is only going to increase.

GLENN BROCKMAN, ASSISTANT CITY ATTORNEY, asked Mr. Swanson if he could tell him if those 2 Adult Care Homes have more than 5 residents in them. Mr. Swanson replied no, they do not. The subject site is the one highlighted in green. The one west of it has submitted a request for a claims letter 3 weeks ago. The one to the east has a zoning clearance letter. He can't recall when he issued that one but they are both 5 or fewer.

JOHN HARRY, 2163 E. FIRESTONE DRIVE, said he is diagonally across the street from the Group Home. He wanted to briefly talk about the zoning and what maybe is the difference between the word of the law versus the intent of the law; the letter of the law versus the intent. He said he wanted to ask everyone what is a neighborhood and why do we humans tend to congregate in them. What is it that makes us do that? He went to good old Wikipedia and got this. A neighborhood is a geographically localized community within a larger city, town, suburb or rural area. Neighborhoods are often social communities with considerable face to face interaction among members. They are basically spatial units in which face-to-face social interactions occur and where the personal settings and situations of the area seek to realize common values, socialized views and maintains effective social control. One might ponder as you consider this what would you be thinking about if you had 3 out of 7 homes that were Group Homes right next to yours. Keep that in the back of your mind. Think about what is happening to this neighborhood.

He said our speakers have covered many aspects of what they consider good quality with the neighborhood this evening; security, privacy, growth, communication, caring for each other, and watching for each other's properties when they are gone. What is the overall ambience of that community? All of them he is sure are living in middle to upper middle class neighborhoods and that is very important to you and where you live. It is important to the value of the property. It is important to the safety of their children, all of the things they have talked about. It is not that they are insensitive to the needs of society and the services should be provided for different members of our society and that laws are written to protect those people. They also all know that our laws are very complicated and they rarely satisfy everyone's needs.

In our case they believe the disparity in the letter of the law versus the intent of the law is not providing protection for the vast majority of the interest in their neighborhood. They feel Chandler needs new or modified zoning regulations, which enacts limits on the density of Group Homes established in neighborhoods to help protect the sanctity and the value of the associated

families in those properties. What is going on in their neighborhood is hurting far more people than are being helped. They know that legally up to 5 unrelated people can be considered a family and thus allow these Group Homes to be established. Why did they come up with 5 people? Where did those laws come from? Was it for Group Homes? Probably not. It was probably allowed so that 5 people that couldn't afford a good home to live together; so their roommates could live together without having legal problems. This is falling under that law and it allows it to happen right in the middle of your neighborhood because it is coming. They think having 3 out of 7 homes and on that street 20, 25 homes – 12% of them are Group Homes is beyond what is acceptable and practical in a community. It is far beyond the intent of the authors of the laws which are governing the existence of these Group Homes.

Again, consider how you would feel if 10% to 20% of the homes in your neighborhood were Group Homes. What would you be doing? He could tell them for a fact that there are people putting their homes up for sale and getting out of Dodge because of this. He said he would like to read a couple of Chandler's Code of Ordinances.

One of them states that 'in addition to any other penalties or remedies provided by this zoning code only an Administrator may suspend or revoke the Use Permit upon a finding of 1) material non-compliance with the conditions prescribed upon issuance of the use of the permit with the representations made by the holder.' He thinks they have shown that those have been violated. Also 'operations of the permitted use in such a manner as to cause a substantial detrimental impact on neighboring persons or property.' I also think they have proved their point there.

Considering all of the issues that they have brought up and if they had more time to prepare, he unfortunately has a very busy schedule and would have loved to have prepared more. He doesn't want to bore them anymore but they vehemently oppose the expansion for all of the reasons that have been brought up. You have asked pretty consistently how long have they known it was there. They were trying to buy that home. There were some other neighbors that were trying to buy that home. Somehow they could never get the realtors interest to get back to them. Suddenly the home was sold at auction. He knows for a fact that there was no one in that home for a considerable time after it was purchased. There was one point where he and his wife discussed that maybe it is a cultural thing where the husband and wife live separately but the family unit is close together. They didn't really understand what was going on there but for quite a while there was nobody living there. All of these instances starting with October including the fact that when they pulled the police reports from October to six months later are when the instances occurred. They weren't there before. They weren't running they were preparing for it. All of the traffic issues, all of the parking issues, all of that has started since about October.

CHAIRMAN VEITCH said he thinks he is obligated to read the remaining speaker cards and will do so in the order in which they were handed to him.

ROBERT KAMPFE, 2481 E. BELLERIVE PL. CHANDLER

Opposed to any expansion and concerned about the density of these kinds of uses within the city.

MARY ELLEN COE-HARRY, 2163 E. FIRESTONE DR., CHANDLER

Greatly opposed and have sent in 2 e-mails stating mine and the action committee stance.

ROSEMARIE SPIHER, 2104 E. FIRESTONE DR., CHANDLER

Submitted a letter with her concerns.

MICHAEL SPIHER, 2104 E. FIRESTONE DR., CHANDLER

Is opposed – no comment.

JAN OCEAN, 2185 E. COUNTY DOWN DR., CHANDLER

Privacy and family atmosphere is invaded upon.

JANET HOFFMANN, 2195 E. COUNTY DOWN DR., CHANDLER

Is opposed – no comment.

MARK/ALLYSON GILDERSLEEVE, 2201 E. WESTCHESTER DR., CHANDLER

Strongly oppose this zoning request based upon the discussed points outlined in my e-mail of 5/23 to the City Council.

JACKI RYAN, 2041 E. WESTCHESTER DR., CHANDLER

I do not want this expansion approved.

STEVE SANDROLINI, 2183 E. FIRESTONE DR., CHANDLER

Is opposed – no comment.

CATHY EDDS, 2166 E. BUENA VISTA DR., CHANDLER

Does not belong in a family neighborhood.

ROBERT JUONSEK, 2021 E. PALM BEACH DR., CHANDLER

No business in our residences.

KAREN MAHONEY, 2123 E. FIRESTONE DR., CHANDLER

We are not done! This will not end here.

DOLORES WINCHELL, 2042 E. PALM BEACH DR., CHANDLER

Is opposed – no comment.

CAROL PEARSON, 2021 E. PALM BEACH DR., CHANDLER

Is opposed – no comment.

BILL WINCHELL, 2042 E. PALM BEACH DR., CHANDLER

Is opposed – no comment.

DAVE SCHLAU, 2194 E. FIRESTONE DR., CHANDLER

Business operating in a residential area.

LEO MAHONEY, 2123 E. FIRESTONE DR., CHANDLER

We are not done! This will not end here!

HILDA BERMUDEZ, 2205 E. COUNTY DOWN DR., CHANDLER

Neighborhoods should be for families not businesses.

VICTOR BERMUDEZ, 2205 E. COUNTY DOWN DR., CHANDLER

Neighborhoods should be for families not businesses.

SHIRLEY SWAIM, 2225 E. BUENA VISTA DR., CHANDLER

We do not need this kind of housing so close to a school or where children play!

STEVE LACHANCE, 6860 S. JUSTIN WAY, CHANDLER

Is opposed – no comment.

GARY HOWARD, 2121 E. DESERT INN, CHANDLER

Too many in a small are - three on one street.

ERIK THOMSON, 2241 E. PALM BEACH DR., CHANDLER

Is opposed – no comment.

TRACI LAYTON, 2086 E. COUNTY DOWN DR., CHANDLER

Is opposed – no comment.

KEN LAYTON, 2086 E. COUNTY DOWN DR., CHANDLER

Is opposed – no comment.

JAMES DUNLAP, 2105 E. COUNTY DOWN DR., CHANDLER

Is opposed – no comment.

JENINA MOPERA, 2083 E. FIRESTONE DR., CHANDLER

Is opposed – no comment.

JOE TRUJILLO, 6850 S. JUSTIN WAY, CHANDLER

Concerned about the individuals staying on the premises.

TAMARA GERBICH, 6870 S. JUSTIN WAY, CHANDLER

Opposed to expansion.

STEVE LOMBARDO, 2063 E. FIRESTONE DR., CHANDLER

Is opposed – no comment.

LEON JOHNSON, 2181 E. PALM BEACH DR., CHANDLER

Is opposed – no comment.

BEATRICE BEUTHER, 2064 E. FIRESTONE DR., CHANDLER

Is opposed – no comment.

NICOLETTE BEUTHER, 2064 E. FIRESTONE DR., CHANDLER

Is opposed – no comment.

JOE BEUTHER, 2064 E. FIRESTONE DR., CHANDLER

Is opposed – no comment.

ED HERRERA, 2146 E. COUNTY DOWN DR., CHANDLER

Is opposed – no comment.

ROCELLE HERRERA, 2146 E. COUNTY DOWN DR., CHANDLER

Is opposed – no comment.

DORIS JOHNSON, 2181 E. PALM BEACH DR., CHANDLER

Is opposed – no comment.

WESLEY FARLEY, 2043 E. FIRESTONE DR., CHANDLER

*Dangerous to the community. Value of neighborhood decline. I bought my home on May 23.
I am shocked and appalled.*

CHAIRMAN VEITCH asked if there is anybody on the list who now wishes to speak. There was.

TAMARA GERBICH, 6870 S. JUSTIN WAY, CHANDLER, said she had one question which frustrates her because she is a realtor. She is just trying to figure out who went and measured this house for the square footage. She asked Erik Swanson if he could answer that in regards to the square footage because it is inaccurate on the assessor's website. She lives in the same home so she knows the square footage. She built the home with Maracay and it was 2757. With that bonus room, that only adds an extra 220 square feet. The square footage on the assessor's is showing 3241. It is not 3241. She did the group tour and toured the home and knows the square footage is incorrect. She wonders if there is any account for them in consideration of expansion based on the square footage being 300 square feet smaller than what is being projected. The new Group Home Adult facility that is going in (the blue one) at 2124 is the same home. That square footage on the MLS is 2992. Her problem is with the square footage and if anyone has taken an accurate account of how many people in the size of the home.

MR. SWANSON replied historically when they look at these they don't go out and verify the square footages of the entire home. Their primary concern is making sure the rooms are the appropriate size and meet our standards. They then also walk the remainder of the home to make sure there is a kitchen area, living areas, areas for them to congregate. They will inspect the back yard to make sure they have a patio and things of that nature. In that particular case he walked the house a couple of times. The rooms are accurate from a measurement standpoint, reflected on the floor plan specifically for the bedrooms. Again, they don't necessarily go and do the square footage of the entire home itself because there aren't any standards to apply for a living room or a kitchen that that has to be a specific square footage. In a sense, all they are really concerned with are the bedrooms and what they can accommodate.

WESLEY FARLEY, 2043 E. FIRESTONE DR., CHANDLER, said he just moved in on May 23. There was no mention of any of these houses when he moved in. If he had known this, he wouldn't have bought this house. He sees nothing but trouble coming down the road. They are creating danger for children. He sees teenagers out there. They are creating danger for them. He just doesn't understand it. All he hears is they have square footage, etc. They have families. This is wrong and if he could move, he would move.

MARY ELLEN COE-HARRY, 6870 S. JUSTIN WAY, CHANDLER, said she lives with her husband Jon catty-corner. She said she would like to answer 2 questions first. She asked if she could say something that will go on the record. The Assistant City Attorney said no. She said there is a reason Jody and Pao aren't here tonight. She can't state that reason because it will be on the record. You could guess what it is. They have been talking to Jody and Pao a fair amount. When Jody's mother first saw it she was actually here visiting. She doesn't live in the country and it was in the December timeframe when that first section happened. She knows somebody asked that question. She wanted to answer. Jody can't be here to answer it herself. It's hearsay but that is what she is telling them. It was later that that happened to Jody. She wants to say somewhat recently but it was a few months ago but it was in 2013.

The other thing she would like to say is that they ride around all the time on their bikes and they take the dogs out and she is sure their neighbors are annoyed at their barking because they love to ride in a cart. We wave all the time to everybody they see including Clarisse and Tellis, her husband, who is a scientist. They ask what is going on. Are they getting renters? They are glad somebody bought it and again, she just would not tell us. She was evasive. They definitely wondered what was going on. When you asked the question when did they know, they did not know for certain what was going on at that Group Home and that it was a Group Home for Behavioral Health until somebody got a note and said there is a community meeting. She showed where they live and said they never got a notice about the initial community meeting. Erik kindly has agreed to take over and make sure that people do get the notices. They asked but they did not know. She actually didn't know how they should have known except they knew something was different.

CLARISSE KAMGAING said basically she heard her neighbors complaining about a resident that went out for a walk. Actually, one of their activities every morning is that either herself or a

facility member, manager or a behavioral health technician, has to take the client for a walk. They are mentally ill; there is nothing wrong with them. They are a minority; they need to be taken care of. They are in the facility to get help. They are there to get education and counseling and even since the opening at last 8 of the residents have left the program and have moved to live independently in the community. She doesn't really understand what the scare is about. They are not supposed to live in fear. She has little kids. Her children play. They go for a walk every day. Since she has sent the meeting notice out, even when she says hi to her neighbor, they don't want to say hi to me. She is not doing anything illegal. She is helping people. They mentioned the rate of crime would increase. When they are moving into Better Horizons, they are coming from the hospital. They have to be clean. They don't do drugs. There are no drugs are no crime or no alcohol going on there. Therapists are there 4 days a week for resident counseling. The Office of Behavioral Health only allows 1 hour of counseling per week. The reason why the increased traffic is there is because the clinical teams are actually coming there on a daily basis to help those residents.

LARRY WHEELAN, CLINICAL DIRECTOR OF BETTER HORIZONS, said he would be happy to answer any questions. There are some uncertainties about when it started and different things of that nature. There were some questions that were rhetorical from the very impassioned community and he is glad to hear they are getting together – that is good to see. He thinks there is not enough information for them to know what is really going on in Clarisse's facility. It is a very safe and very secure facility. He would be happy to answer questions or make a couple of comments to the questions that were rhetorically asked.

CHAIRMAN VEITCH said he thinks there were a couple of questions that people intended to ask of the applicant.

VICE CHAIRMAN PRIDEMORE asked when did the facility begin operation. He said he would define that two ways. When did people start coming to the house for care and when did they actually start spending the night at the house. Mr. Wheelan responded that the first client would have been spending the night. It is a sleep-in facility with 24/7 supervision. That was June of 2012 and it just increased to more clients after that. It actually was pretty amazing. It was licensed and he was meeting with Clarisse that there would be a waiting period of probably 6 months but she has such a wonderful facility, case managers come and look at it and look at the inside and she is sure some of these people have looked at it. He supervises other facilities too. It is a very, very nicely furnished and taken care of facility. She started getting referrals quickly because of how good a facility it is. That is a testament to her doing more than she needs to for these people that have needs which he is sure they are aware are pretty high needs. They are functioning normal people and they just need some support in life.

COMMISSIONER DONALDSON said in reading the materials, he would have a ratio of staff to patients. Mr. Wheelan replied yes. **COMMISSIONER DONALDSON** asked what is their staff level for 5 patients and what will it be for 10 patients. Mr. Wheelan replied that the ratio that is suggested for staff to clients will be met for sure. It will be 2 staff per 10 at all times. Right now it is just 1 for 5 at all times. There is a lot of other staff that come in. There are

counselors and he comes in and makes sure things are safe and secure and the files are good. Medical personnel come in and any case managers that might come in. Case managers love to visit the Group Home because it is refreshing to see a Group Home that does a really over and above job. Any of them would be welcome to come and look at the facility if that would help make their decision unless they have to make it right tonight. If they want to wait and look at the facility, they will see. One thing he wants to address on taking care of the facility, when Clarisse heard that people were not happy with the way that the place looked, someone said what it shows you is that she took care of it for this meeting. Well no, she took care of it because she is considerate and she got it painted and took care of the issues because she is considerate to this neighborhood; she lives in the neighborhood. She is a fine, upstanding person that is doing the right thing. **COMMISSIONER DONALDSON** said related to the increased staff level and the increased visits, it sounds like it would be increasing the amount of parking that would take place on the street, at the home. How does he anticipate remedying the issues that are being raised associated with parking? Mr. Wheelan said first of all they are being told there is a parking issue. He doesn't think there is a parking issue. Every time he goes there yes, there are a lot of cars but people are parked legally and if someone has a party at their homes and since we all live in residences, sometimes there are 20 cars on the street. They can all be legally parked. There could be many staff there and it could be very legal. If they have to walk ½ a block to get to the house because there are cars there, so be it. Just because of this discussion today, he is in charge of doing the training of the staff. He will do training on that on being considerate to the neighborhood, parking correctly, making sure they don't park up on the curb. He didn't see the picture that the person showed them. It wasn't put on the overhead. That kind of thing is not o.k. and they will deal with it. He said he had one question. One of the people said they backed up their car and they hit another car. He was wondering if that was ever reported and he was wondering whose car got it. It was concerning to him that something happened on a street that is illegal and then it was not reported to anyone. He doesn't know if any of Clarisse's staff have an extra dent in their car that they don't know about. He didn't think that was too kind. **COMMISSIONER DONALDSON** asked if it was reported to him about the issues of the clients looking over the fence. Mr. Wheelan did not know about the over the fence issue. He doesn't even know if Clarisse was aware of that. Certainly again, that will be addressed in the area of supervision. They are not allowed to do that and it would be like if one of their kids did something wrong at their house and they were playing ball and threw it in the neighbor's yard and Mr. Jones didn't like that, the parent would address it. That would be the same kind of action that will be taken with these people to address these rightful concerns of these people that live in the community. They will make sure to try and make it a safer and better environment for them. **COMMISSIONER DONALDSON** asked if he or the owner have been notified of a violation or cited for anything from the HOA. Clarisse Kamgaing replied they sent a letter and her husband is not here today and he actually asked her to mention it during this meeting. After they sent out the letter to expand the business, the HOA has been sending them a lot of letters. He doesn't know why they are sending them letters because their yards are well maintained. **COMMISSIONER DONALDSON** asked her if she knew what the nature of the letters are. Clarisse replied no, not exactly. Like she says, she tries to wave to her neighbors. Her neighbors just look at her as if she is coming from a different planet. She is even concerned about her own security because some of them were calling her, harassing her on a personal home phone saying

she is going to be here with a bunch of white people and she will be the only black person and so on. Some people in the audience seemed upset about that statement.

CHAIRMAN VEITCH said for them to confine this to questions and answers between the Commission and the applicant and then they will move on.

MR. WHEELAN said one question that was asked or stated is what you will get if you have a bunch of drug addicts is obviously crime. He said he has been doing this for 30 years and he is a professor at Grand Canyon University in their drug addiction program. If you have drug treatment going on, you don't get crime at all. What you get is sobriety. What he would like these people to know is that drug treatment brings sobriety not crime. It brings well standing citizens that can become independent in the community.

COMMISSIONER WASTCHAK said he thought he read in the literature that when residents are out or leave the home, they all required to be supervised. Is there somebody with them? Mr. Wheelan replied yes. **COMMISSIONER WASTCHAK** said also with his experience is there a difference between managing a home with adults versus this type of home. It is his understanding that this is the only type of home in Chandler that services these types of residents. Mr. Wheelan replied that Erik might know the other 2 homes that he works with in Chandler. One of them is a kids Group Home. It is on Yellow Hair Drive. That Group Home has kids in it – boys. It is tougher to manage young folk. There is not even a question about it. So the adults that are in Clarisse's Group Home and the future adults are going to be much easier to manage because they are adults. They have developed skills with conscience and they can make the decisions. Even though they have some issues, they have a lot of things going for them that are good. Young men that are 15, 16 and 17 will be more of a challenge without any doubt. This is probably a safer decision to make. **COMMISSIONER WASTCHAK** asked if they have any homes like this that have 10 residents. Mr. Wheelan said yes in Phoenix. He manages it up there. It is with Kraft Behavioral Health Group homes. He works up there as a counselor. It works very well and they have mixed residents as well. A lot of the adult Group Homes have mixed residents where there are women. **COMMISSIONER WASTCHAK** asked if they see any difference in the operation as far as in the influence of that to the neighborhood setting going from 5 to 10. Mr. Wheelan replied he has not seen that, no. There are a little bit more people in there so there might be some more stuff inside the home that they have to manage but it is nothing that can't be managed. It works very well for that Group Home and for the other Group Homes he has been in.

CHAIRMAN VEITCH thanked them and said a while ago they put off asking any questions of the Police Department. They could open that back up for questions of Staff which could include the Police Department if anybody would like to hear it.

COMMISSIONER RYAN said to Erik he is relatively young to the Staff so he may have to go to Kevin on it but originally when they looked at these types of facilities 15 or 20 years ago, they originally had every one of them go through as a Use Permit. Then they got to the point there were so many applications that they decided to leave it up to Staff to bring these into

neighborhoods at a limitation of 5 people. He thinks that is how it came about. Is he right? Mr. Kevin Mayo, Planning Manager said that to a point, yes. There were a ton of factors that played into the evolution of Code and the evolution of the definition of family. Chandler does not operate in a vacuum. They weren't just kind of going about this by themselves. It is a Federal, it is a State evolution, it is a Phoenix valley evolution of what becomes the definition of family. There is case law that goes into municipalities trying to regulate the definition of family, the numbers, attempts at making the number 3 and a case law where it got challenged and directed to those various municipalities that that number is too restrictive. Across the board cities have just gravitated to this number of 5. From a protection standpoint from Federal Law, from the Fair Housing Act and in these types of Behavioral Health, Assisted Living Group Homes and things like that, there are a bunch of things that guides the City of Chandler and has guided the evolution of how the process occurs from what requires Use Permit, what doesn't, what is the definition of family, what isn't. Then they get into the Assisted Living Facilities and the Group Homes. A lot of what they see in our requirements mirror and come straight out of what the state requires. So it isn't just Chandler operating the vacuum. There are so many things that have played into that evolution over the years. **COMMISSIONER RYAN** said he is starting to recall that now and he does appreciate him regurgitating that. He thinks it is important for not only the people out here but all of Commission to understand how this evolution all took place. He was on that Commission back then and he was trying to recall everything and he was wondering how they got 3 homes on this one street here. This is what bothers him. Set aside this application. He thinks the fact that they have 3 houses in the neighborhood probably ought to be the sole means of rejection of additional members in this one house. The big concern that the Commission and the City Council had at that time was to make sure that they were going to disburse these throughout the city. When he sees 3 of them on 1 street, he can see why there are 50 residents in our chambers here. In his mind this is the real issue and he thinks they have to look at this, just not this one house. He knows this issue is about 1 house here. But really when you look at the big picture from a Planning and Zoning standpoint, they are looking at the residential development and keeping the integrity of this single-family neighborhood. He is seeing 3 houses here so he is seeing an automatic no. That is his feeling. There was applause from the audience.

CHAIRMAN VEITCH asked if they could refrain from applause. **COMMISSIONER RYAN** said he didn't mean to get that but he just thinks it is important that they look at the big picture here not just this one neighborhood. He is sure the applicant is doing the best job they can and maybe their house is the flagship house of this type of operation. He doesn't know. What he does know is that they have 2 other homes that are not single-family homes here operating quasi-businesses. That is the big concern he has and he would think the other Commissioners would feel the same.

CHAIRMAN VEITCH asked if there were any calls for service statistics that have not been adequately answered that they can ask their police department representative to address. He said Commissioner Cunningham would like to do that.

EDWARD UPSHAW, COMMANDER, CHANDLER POLICE DEPARTMENT, said he is the Chandler Heights Precinct Commander and that is his district. **COMMISSIONER CUNNINGHAM** said she would like to know the nature of the 20 calls. Commander Upshaw said basically they ran the data from October 1 through May 7 and they ran the data for that period of time and they did not come up with 20 calls for service. When they ran the data for all the Group Homes, there are 12 comparable Group Homes in the City of Chandler; they also did not come up with 20 calls for service. They do not have 20 calls for service at that location. **COMMISSIONER CUNNINGHAM** asked how many calls do they have. He responded 13. **COMMISSIONER CUNNINGHAM** asked what was the nature of those calls. He said most of them are an assist, dispatch for ambulance, public assist, suicidal subject. They got one call from a subject that was sitting in the living room and thought about hurting himself and they called the police. They did have a domestic disturbance fight which is also related to the Behavioral Health issue within the facility. **COMMISSIONER CUNNINGHAM** asked how many domestic disturbances? The Commander replied one – no violence.

GLENN BROCKMAN, ASSISTANT CITY ATTORNEY asked Commander Upshaw if the source of the calls were all from that residence. The officer replied 100% of the calls for service to this house were from within. Mr. Brockman said no neighbors? The Commander said he can't speak for neighborhood services or parking type of violations but for police and fire, 100% came from the house. Mr. Brockman asked how that compares to a normal residence with a large number of teenagers for example, say more than 5 residents in a house. The Commander said he did run the particular grid for the year of 2012 and this wasn't even the highest calls for service in that grid. Mr. Brockman said so he is saying that there is a residence not involving a Group Home that would have a higher number of calls than this facility would. Commander Upshaw replied that is what his data is showing.

MR. HOFFMAN said he asked to speak because he and the Commander did speak and he referenced that conversation. His department was very helpful giving them information in regards to calls for service not only for this facility but for Life facilities in the City of Chandler. They have 2 different reports. One report they have shows 20 calls. The report he provided us shows 13. He was really interested in seeing how much. He remembered the Commander saying very specifically they know pretty quickly when a house like this goes into a neighborhood where the house is because calls start coming immediately. Some of these calls are not as serious as what they might be. His opinion is that a threatening call is a serious call. He hasn't had any at this house. Threatening suicide is a serious call. A missing person is a serious call in his mind. It plays right into Vice Chairman Pridemore's question to him earlier. How long did he know about this being a Group Home? He didn't. The question of the matter is how long did the people in Cleveland know that the neighbor right next door to them was doing what he was doing with those girls. He is not saying that the potential is the same but he is saying that ignorance is not necessarily a reason to allow people to move forward. They have to understand that they are inviting an element into their neighborhood. They have a track record in a short 6 month period that is very atypical of what they have experienced in their neighborhood and he thinks as responsible citizens they need to do something about it.

JOHN HARRY, 2163 E. FIRESTONE DRIVE, said he called the Chandler Police Department and they advised him to write a letter to find out this information. He thinks this officer was probably involved with it because there was quite a bit of traffic in e-mails going back and forth. There were 20 calls to that home. He has the documentation and he said he will e-mail it to all of them tonight.

CHAIRMAN VEITCH closed the floor and said they would continue the discussion with the members of the Commission.

COMMISSIONER CUNNINGHAM thanked them for coming tonight. She said she appreciated the concerns of the neighbors and she also appreciated the applicant's concern for the people she is working with. She commended her for her concern for the well-being of those people. She thanked them also for the e-mails that were sent. She apologized for not answering each of them individually. She did try but she also has a business that she runs and ran out of time. She did read each and every one of them and began researching a bit herself as to what was happening in their neighborhood. She also found that it was disturbing that there are 3 Group Homes not just within the subdivision but on the same street. She has had Group Homes in neighborhoods that she has lived in that were for elderly care and found them to be very benign and very quiet. They weren't likely to have calls for anything except an ambulance. Not a lot of domestic violence coming out of the elderly homes. On the other hand one domestic violence call does not constitute a war. She understands the need for facilities within a home like setting. However, she understands the need to keep your homes in a home like setting and not in a business setting. I do not feel that the business owner has treated this business as a home for these people as much as it has been treated as a business or the weeds would not have been an issue, there would not have been letters from the HOA. She is looking at a variety of people in the neighborhood and she doesn't see any one nationality, one race, one color. She sees a mixture of ethnicity. She sees a very united group of people that are united not by color but by their concern for their neighborhood. She will not be supporting this proposal. She thinks that until the owner is able to maintain and control this facility as a home in a neighborhood and it appears as a home in the neighborhood and not a facility, that many people will come to visit because it is so outstanding in its field. It may be outstanding in its field for behavioral health but as a neighbor it has failed the neighborhood. She does not approve adding to that failure and increasing the problems for the neighborhood so she will be against this.

COMMISSIONER DONALDSON said in going back to the business in a residential neighborhood, in Chandler it is very difficult to run a business out of your home. It is very difficult to get that approved in most cases. He thinks it has to be handled very carefully when it is approved. This business is approved and allowed by state law by up to 5 residents or patients being in the home. He thinks and agrees with Commissioner Cunningham that the neighbors are indicating that this business is not being run appropriately or well in a residential neighborhood. The CC&R's or HOA is powerless when HOA residents are thinking that they are in an HOA that doesn't allow businesses and they find out that this business is allowed and the CC&R's and the HOA can't keep it from operating. The density issue, they can't even as a body or as a city currently control the density so 3 homes of this nature wind up on one street. He thinks that their

responsibility is that they can control the size of these facilities and these businesses and he thinks from the information that he has gotten this evening and through all of the e-mails from the applicant, he would not be able to support the expansion of this facility for additional clients. Therefore he will do what he can to level the density that currently exists and not increase it. He will not be able to support this increase.

VICE CHAIRMAN PRIDEMORE stated he has not heard a compelling argument tonight on why they should allow the increase in numbers. In regards to the business aspect of it, personally he does not have an issue with a business being in a residential neighborhood as long as it meets certain criteria. They have other cases before them while he has been on the Commission and he said something similar in that if you are going to run a business out of a neighborhood, the overt appearance of the house should be that of a house. There may be some more cars but again it's where they are parking, how are they parking and how are they integrating in the neighborhood. Obviously he asked the same question several times tonight. When did they know it was there? It sounds like a lot of the residents that aren't directly adjacent or don't have a very front window view of it, there was some questions and some stuff going on but no specifics. Obviously, the people who experienced unknown people staring over the wall, that is getting into a whole another level of problem and that to him is more telling. He said he doesn't have an issue with the business but you should never know that is there. Obviously, the other 2, one approved and the other one operating, they haven't heard anything, which is good. You as neighbors in an ideal world should never know that it is anything else than a house. He agrees with Commissioner Cunningham on the regard that in this case that has failed. He thanked them for coming out. It is difficult to step up to a podium and he does appreciate the effort that has been put forward. He understands the passion and he appreciate that they held themselves in check for the most part. There have been a few outbursts and for him personally, he is going to tune you out. That doesn't help make your argument. To him it is more telling if you can put your name on a yellow piece of paper and state your opinion. If you come up to that podium and you state your name and address for the record he can respect that so he applauds those that did that. He hasn't heard a compelling argument and he thinks things can improve over time. He would hope after this that you as neighbors see an improvement and maybe they could see this down the line. Right now he would say to maintain it where it is and see if they can't do better before he would recommend approval for increasing the number. He said he would make a motion.

MOVED BY VICE CHAIRMAN PRIDEMORE, seconded by **COMMISSIONER CUNNINGHAM** to recommend Denial of Use Permit ZUP13-0007 BETTER HORIZONS BEHAVIORAL HEALTH LLC.

CHAIRMAN VEITCH said he lives in a neighborhood that does not have an HOA and he understands there is an elderly care Group Home down the street and around the corner and apparently it operates in a manner that they would all like to see them operate. He couldn't tell you which house it is but he is pretty sure it is there. In contrast to that he has concerns about the operational track record of this facility as it has been described to them. He has the same concerns that many of his colleagues have about the accidental concentration of 5 residents and

under Group Home facilities in this one block. Perhaps that is a subject that could be given some study and some legal analysis but that is not on their agenda tonight. The only thing that this Commission can do is decide whether or not to recommend granting of the Use Permit that would allow this particular facility to get bigger in terms of its resident population.

The item was unanimously denied 7-0.

CHAIRMAN VEITCH said this will be at the City Council on June 27, 2013.

6. DIRECTOR'S REPORT

Mr. Kevin Mayo, Planning Manager, said there was nothing to report this evening.

7. CHAIRMAN'S ANNOUNCEMENTS

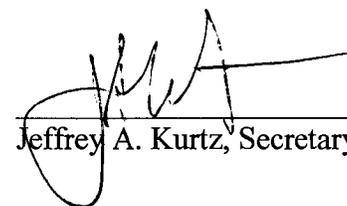
CHAIRMAN VEITCH said the next regular meeting is June 19, 2013 at 5:30 p.m. in the Council Chambers at the Chandler City Hall, 88 East Chicago Street, Chandler, Arizona.

8. ADJOURNMENT

The meeting was adjourned at 7:46 p.m.



Stephen Veitch, Chairman



Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, June 19, 2013 held in the City Council Chambers, 88 E. Chicago Street.

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

Chairman Stephen Veitch
Vice Chairman Matthew Pridemore
Commissioner Andrew Baron
Commissioner Katy Cunningham
Commissioner Bill Donaldson
Commissioner Devan Wastchak

Absent and Excused:

Commissioner Phil Ryan

Also present:

Mr. Kevin Mayo, Planning Manager
Ms. Jodie Novak, Senior City Planner
Ms. Susan Fiala, City Planner
Glenn Brockman, Assistant City Attorney
Ms. Joyce Radatz, Clerk

4. APPROVAL OF MINUTES

CHAIRMAN VEITCH pointed out to the Commission that he called in one minor correction to page 30. Near the bottom of the page he made a brief reference to the neighborhood he lives in and said it does not have an HOA. The first draft inadvertently omitted the word 'not'. It has been inserted for the signature copy. With that minor correction he asked if there was a motion to approve the minutes as corrected.

MOVED BY VICE CHAIRMAN PRIDEMORE, seconded by COMMISSIONER DONALDSON to approve the minutes of the June 5, 2013 Planning Commission Hearing with the change as noted. The motion passed unanimously 6-0. (Commissioner Ryan was absent.)

5. ACTION AGENDA ITEMS

CHAIRMAN VEITCH informed the audience that prior to the meeting Commission and Staff met in a Study Session to discuss each of the items on the agenda and the consent agenda will be approved by a single vote. After Staff reads the consent agenda into the record, the audience will have the opportunity to pull any of the items for discussion. There were no items pulled for action.

A. DVR13-0006 SWC NORMAN WAY & PECOS ROAD

Approved.

Request rezoning from AG-1/PAD (Agricultural District with a Planned Area Development Overlay) to allow a solar PV system to PAD (single-family residential) for the development of one single-family residence with Preliminary Development Plan (PDP) for site layout and building design. The property is located at the southwest corner of Pecos Road and Norman Way, west of Gilbert Road.

Rezoning

1. Development shall be in substantial conformance with Exhibits A, B, C, and D as represented by the applicant in case DVR13-0006 SWC NORMAN WAY & PECOS ROAD, 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. All structures on the property shall remain below the protective surfaces as defined in Federal Aviation Regulation Part 77 and/or in relation to limits established in FAA determined Terminal Procedures (TERPS). All construction cranes shall be installed and operated in accordance with FAA rules and regulations including notification through the filing of FAA Form 7460-1, Notice of Proposed Construction or Alteration.
7. Prior to building permit issuance for any structures the developer shall provide a DETERMINATION OF NO HAZARD TO AVIATION approval as issued by the FAA after filing an FAA Form 7460, Notice of Proposed Construction or Alteration.
8. 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.

Preliminary Development Plan

1. Development shall be in substantial conformance with Exhibits A, B, C, and D as represented by the applicant in case DVR13-0006 SWC NORMAN WAY & PECOS ROAD, except as modified by condition herein.

2. Approval by the Director of Transportation & Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Transportation & Development for arterial street median landscaping.
3. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or association.
4. The perimeter wall design shall be compatible with the adjacent Rancho del Ray perimeter walls.

B. PDP13-0002 CHANDLER MIDWAY CORPORATE CENTER

Approved.

Request Preliminary Development Plan (PDP) approval to allow freestanding multi-tenant monument signs for an existing development located at the northeast corner of Chandler Boulevard and Gila Springs Boulevard.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "CHANDLER MIDWAY CORPORATE CENTER", kept on file in the City of Chandler Planning Division, in File No. "PDP13-0002", 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.
3. All future signage shall be consistent with the signage contained within the attached exhibits with regards to sign type and quality. Any deviations shall require separate Preliminary Development Plan approval.

C. LUP13-0004 MAX & TED'S 480

Approved.

Request Liquor Use Permit approval to sell liquor as permitted under a Series 6 Bar License for on-premise consumption indoors and have live music indoors at an existing bar. The property is located at 480 N. Arizona Avenue, south of the southwest corner of West Oakland Street and North Arizona Avenue.

1. The Use Permit granted is for a Series 6 license only, and any change of license shall require reapplication and new Use Permit approval.
2. The Use Permit shall remain in effect for one (1) year from the 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. The Use Permit is non-transferable to any other location.
4. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require a new Liquor Use Permit application and approval.

5. Music shall be controlled so as to not unreasonably disturb area residents and shall not exceed the ambient noise level as measured at the commercial property line.
6. No noise shall be emitted from the live entertainment occurring indoors that exceeds the general level of noise emitted by uses outside the premises of the business and further will not disturb adjacent businesses and residential areas.
7. The site shall be maintained in a clean and orderly manner.

D. LUP13-0005 NABERS

Approved.

Request Liquor Use Permit approval to sell and serve liquor as permitted under a Series 6 Bar License for on-premise consumption indoors and within an outdoor patio and have live music indoors at a new restaurant. The property is located at 825 North 54th Street, northeast corner of West Harrison and North 54th Streets in the Chandler Pavilions.

1. The Use Permit granted is for a Series 6 license only, and any change of license shall require reapplication and new Use Permit approval.
2. The Use Permit shall remain in effect for one (1) year from the 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. The Use Permit is non-transferable to any other location.
4. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require a new Liquor Use Permit application and approval.
5. Music shall be controlled so as to not unreasonably disturb area residents and businesses and shall not exceed the ambient noise level as measured at the commercial property line.
6. No noise shall be emitted from the live entertainment occurring indoors that exceeds the general level of noise emitted by uses outside the premises of the business and further will not disturb adjacent businesses and residential areas.
7. The site shall be maintained in a clean and orderly manner.
8. The patio shall be maintained in a clean and orderly manner.

E. ZUP12-0035 EVA'S MI AMORE

Approved.

Request Use Permit extension approval to operate a wedding planning and bridal service office in a converted residence in the SF-8.5 Single-Family Residence zoning district. The property is located at 598 W. Chandler Blvd.

1. Substantial expansion or modification beyond the approved exhibits (Floor Plan, Narrative) shall void the Use Permit and require a new Use Permit application and approval.
2. There shall be no tandem parking in the designated parking spaces at the rear of the property.
3. Parking along Hartford Street is not permitted for either employees or clients.
4. Parking shall not be permitted in the front yard other than on the existing concrete driveway.
5. The site shall be maintained in a clean and orderly manner.

6. The landscaping shall be maintained at a level consistent with or better than at the time of planting.
7. The Use Permit shall remain in effect for three (3) years from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.

F. MOTION TO CANCEL THE JULY 3, 2013 PLANNING COMMISSION HEARING.

Approved to cancel the July 3, 2013 Planning Commission Hearing.

CHAIRMAN VEITCH noted for the Commission that he had a speaker card concerning Item C. He read the speaker card that said he is opposed to Item C and wishes to speak. He asked the gentlemen if he wished to speak prior to a vote on the Consent Agenda or if he wanted the item to be pulled from the Consent Agenda for a full hearing. The gentlemen responded that he would like to speak.

OMAR GORDILLO, 1938 E. MEADOW, TEMPE, said he is the owner of the property down the street which is on the northwest corner of Oakland and Arizona Ave. He has noticed every night the parking spaces in the area are not enough for the businesses that are operating. Most of the time they park in the parking lot that belongs to his apartment building. The problem that it is causing is because there is no place on the street, particularly on Arizona Avenue, when they come back at night to pick up their car from the bar; they make a lot of noise, start to fight, and sometimes the police come. Another problem is going to be the traffic going through the alley which connects Oakland Street and the other street by where the Chandler Liquor store is. He has been getting complaints from his tenants about the noise, the people who are in the area roaming, sometimes drunk, sometimes doing drugs. His concern is that a lot of activity in the area is going to add more problems and more disruption.

CHAIRMAN VEITCH asked if there were any questions for the speaker. There were none but he had a question for Staff. He said his recollection from the Study Session presentation is that the property itself is parked to code.

SUSAN FIALA, CITY PLANNER, replied that is correct. All parking is provided on site within a parking lot that is on the west side of the business and is accessed from the alley. So it is actually over parked based on their code requirements for a bar.

CHAIRMAN VEITCH said in addition as he remembers it, there is a parking agreement in place for bar staff to park off site. The property owner of Max & Ted's has gone above and beyond what is required by code and has received permission from an adjacent property owner, who owns a tire shop south of there, to use their site for parking as the tire shop ends their business at noon on Saturdays. The property owner will park his car and any other available spaces that are there. The other employees will go over and use their site as well.

MR. GORDILLO said what is happening is the regular people don't know where to park and they park anywhere they can find a space. He is not sure if the regular people will know where to park when they are going to the bar. He doesn't know how he is going to regulate it. He has already called the police. He has been having these issues for about 2 years when Coyote opened. He looked up the website with the information to have more patrols particularly around 2:00 a.m. for the noises and for the people who get drunk.

CHAIRMAN VEITCH said thank you sir. Without affirming or denying that there might be parking issues in the area, given the fact that this property is parked to code and has arrangements in place for additional parking, it is hard to pin the problem on this particular establishment. However, the applicant he is sure is going to be made aware of his concerns regarding knowledge on the part of patrons where they should park and issues of that sort.

MR. GORDILLO said he sees they have space for 64 people and they have a space for parking 20 cars. He doesn't think that 64 people come into the bar in 20 cars. He thinks probably it will be more than 20 cars. That is another one of his concerns. There will probably be more than 64 people and they will arrive in 50 cars.

CHAIRMAN VEITCH said they can park anywhere where it is legally permitted whether that is on a public street or in the bar's parking lot or anyplace else where they have an arrangement in place. **CHAIRMAN VEITCH** thanked Mr. Gordillo and said his comments will be reflected in the record that the City Council will see. With that he said they were ready for consideration of the Consent Agenda. He asked for a motion to approve the Consent Agenda as read in by Staff.

MOVED BY VICE CHAIRMAN PRIDEMORE, seconded by **COMMISSIONER CUNNINGHAM** to approve the Consent Agenda as read into the record by Staff. The Consent Agenda passed unanimously 6-0. (Commissioner Ryan was absent.)

CHAIRMAN VEITCH said Item C will be on the Council's agenda for July 11, 2013.

6. DIRECTOR'S REPORT

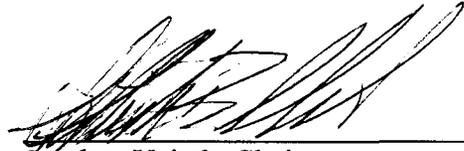
Mr. Kevin Mayo, Planning Manager, said there was nothing to report this evening.

7. CHAIRMAN'S ANNOUNCEMENTS

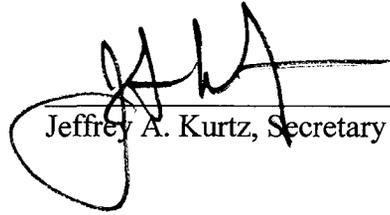
CHAIRMAN VEITCH said the next regular meeting is July 17, 2013 at 5:30 p.m. in the Council Chambers at the Chandler City Hall, 88 East Chicago Street, Chandler, Arizona.

8. ADJOURNMENT

The meeting was adjourned at 5:44 p.m.



Stephen Veitch, Chairman



Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, July 17, 2013 held in the City Council Chambers, 88 E. Chicago Street.

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

Chairman Stephen Veitch
Vice Chairman Matthew Pridemore
Commissioner Katy Cunningham
Commissioner Bill Donaldson
Commissioner Phil Ryan
Commissioner Devan Wastchak

Absent and Excused:

Commissioner Andrew Baron

Also present:

Mr. Kevin Mayo, Planning Manager
Ms. Erik Swanson, City Planner
Ms. Susan Fiala, City Planner
Kay Bigelow, Assistant City Attorney
Ms. Joyce Radatz, Clerk

4. APPROVAL OF MINUTES
MOVED BY VICE CHAIRMAN PRIDEMORE, seconded by COMMISSIONER CUNNINGHAM to approve the minutes of the June 19, 2013 Planning Commission Hearing with the change as noted. The motion passed unanimously 6-0. (Commissioner Baron was absent.)
5. ACTION AGENDA ITEMS
CHAIRMAN VEITCH informed the audience that prior to the meeting Commission and Staff met in a Study Session to discuss each of the items on the agenda and the consent agenda will be approved by a single vote. After Staff reads the consent agenda into the record, the audience will have the opportunity to pull any of the items for discussion. There were no items pulled for action.

A. DVR13-0005 NORIA @ CHANDLER AIRPARK

Approved.

Request rezoning from Agricultural (AG-1) to Planned Area Development (PAD) for a mixed-use development including commercial and multi-family residential uses, with Preliminary Development Plan (PDP) approval for site layout and building architecture on an approximate 39-acre site. The subject site is located at the southeast corner of Germann and McQueen roads.

Rezoning

1. Development shall be in substantial conformance with the Development Booklet, entitled "NORIA AT CHANDLER AIRPARK", kept on file in the City of Chandler Planning Services Division, in File No. DVR13-0005, 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. 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. 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. Right-of-way dedications to achieve full half-widths, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.
8. An emergency access easement shall be provided along the site's eastern boundary as part of phase two. Full construction of the access easement shall occur when the property east of the subject site develops, or at the point in time the Transportation and Development Director determines that a permanent drive is necessary.
9. The multi-family apartment manager shall display, in a conspicuous place within the rental office, a map illustrating the location of the Noria at Chandler Airpark Multi-Family Apartments in the context of the Chandler Airpark Area Plan. Such map or aerial photo shall be a minimum size of 24" x 36". Compliance with this condition shall be demonstrated by the property owner or multi-family apartment manager by submittal to the Zoning Administrator of a signed affidavit and photograph that acknowledges such map is on display prior to beginning any rental activity.

10. Prior to execution of any lease, prospective apartment tenants shall be given written disclosure in their lease and in a separately signed disclosure statement acknowledging that this apartment community is located proximate to the Chandler Municipal Airport, that an avigational easement exists on the property, and that the property is subject to aircraft noise and overflight activity. The requirement for such disclosures shall be confirmed in an Avigation Notice Covenant that runs with the land and is recorded with the Maricopa County Recorder prior to issuance of the first Building Permit for this development.
11. 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.
12. Prior to building permit issuance for any structures the developer shall provide a DETERMINATION OF NO HAZARD TO AVIATION approval as issued by the FAA after filing an FAA Form 7460, Notice of Proposed Construction or Alteration.
13. In the event the development is proposed to be subdivided to allow individual condo unit ownership, the proposed condos shall be processed in accordance with City of Chandler plat requirements which includes public hearings and, if such Condo Plat is approved and Recorded, the following stipulations shall be the responsibilities of the subdivider/homebuilder/developer and shall not be construed as a guarantee of disclosure by the City of Chandler:
 - a) Prior to any condo unit reservation or purchase agreement, any and all prospective condo buyers shall be given a separate disclosure statement, for their signature, fully acknowledging that this subdivision lies proximate to the Chandler Municipal 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 condo buyer shall be recorded with the Maricopa County Recorder's Office upon sale of the condo to such buyer.
 - b) The subdivider/homebuilder/developer shall also display, in a conspicuous place within the condo sales office, a map illustrating the location of the Condo Plat in the context of Chandler Municipal Airport. Such map or aerial photo shall be a minimum size of 24" x 36". Compliance with this condition shall be demonstrated by the subdivider/developer by submittal to the Zoning Administrator of a signed affidavit and photograph that acknowledges this map is on display prior to beginning any sales activity.
 - c) The aircraft noise, overflight activity and avigational easement information referenced above in "a" and "b" 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 law.
14. All leases at the NORIA AT CHANDLER AIRPARK multi-family apartments shall provide that all questions, concerns or complaints any tenant may have about Chandler Municipal Airport of the operation of aircraft landing at, taking off from or operating at or on Chandler Municipal Airport shall be directed solely to the manager of the NORIA AT CHANDLER AIRPARK development and not to the Chandler Municipal Airport, the City of Chandler, the FAA, any aircraft owner or any pilot. All leases shall also provide that it shall be within the sole and absolute discretion of the Manager of NORIA AT CHANDLER AIRPARK (and not the tenant) to determine (after the Manager's due consideration of all airport related acknowledgements and disclosures that are required by these Zoning Stipulations and consideration of all information known to NORIA AT CHANDLER AIRPARK Manager)

whether or not, when and how to communicate any tenant's question, concern or complaint to the manager of the Chandler Municipal Airport.

Preliminary Development Plan

1. Development shall be in substantial conformance with the Development Booklet, entitled "NORIA AT CHANDLER AIRPARK", kept on file in the City of Chandler Planning Services Division, in File No. DVR13-0005, except as modified by condition herein.
2. Approval by the Director of Transportation & Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Transportation & Development for arterial street median landscaping.
3. The landscaping shall be maintained at a level consistent with or better than at the time of planting.
4. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or association.
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.

B. DVR13-0014 CORNERSTONE CHRISTIAN FELLOWSHIP

Approved.

Request rezoning from Agricultural (AG-1) to Planned Area Development (PAD) for a church campus, with Preliminary Development Plan (PDP) approval for a parking lot. The subject site is located east of the southeast corner of Alma School and Willis roads.

Rezoning

1. Right-of-way dedications to achieve full half-widths, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.
2. 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.
3. The rezoning request does not include a specified timing condition. This includes relief of the 1-year timing condition from the effective date of the ordinance as specified in the City Code section 35-2603.B.
4. Development shall be in substantial conformance with the attached exhibits (Site Plan, Narrative), kept on file in the City of Chandler Planning Division, in File No. DVR13-0014, except as modified by condition herein.
5. Landscaping shall be in compliance with current Commercial Design Standards.
6. Approval by the Director of Transportation & Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Transportation & Development for arterial street median landscaping.

Preliminary Development Plan

1. Development shall be in substantial conformance with the attached exhibits (Site Plan, Narrative), kept on file in the City of Chandler Planning Division, in File No. DVR13-0014, except as modified by condition herein.

2. Preliminary Development Plan approval does not constitute Final Development Plan approval; compliance with the details required by all applicable codes and conditions of the City of Chandler shall apply.
3. The applicant shall work with Planning Staff to provide safe and convenient pedestrian walkways within the parking lot.

C. DVR13-0015 HABITAT FOR HUMANITY

Approved.

Request rezoning from Multiple Family Residential District (MF-2) to Planned Area Development (PAD) with Preliminary Development Plan approval for a single-family residence with a reduced front yard setback. The property is located at 489 South Delaware St., northeast corner of Delaware and Fairview streets.

Rezoning

1. Development shall be in substantial conformance with the Development Booklet, entitled "Habitat for Humanity Central Arizona" and kept on file in the City of Chandler Planning Division, in File No. DVR13-0015, modified by such conditions included at the time the Booklet was approved by the Chandler City Council and/or as thereafter amended, modified or supplemented by the Chandler City Council.
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. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner.

Preliminary Development Plan

1. Development shall be in substantial conformance with the Development Booklet, entitled "Habitat for Humanity Central Arizona", kept on file in the City of Chandler Planning Division, in File No. DVR13-0015, except as modified by condition herein.

D. DVR13-0022 EAST OF THE SEC OF CHANDLER HEIGHTS AND COOPER ROADS

Approved.

Request the establishment of initial City zoning of Agricultural (AG-1) on an approximate 25-acre site located east of the southeast corner of Chandler Heights and Cooper roads.

Upon finding consistency with the General Plan, Planning Commission and Planning Staff recommend approval of the establishment of initial city zoning of AG-1 on an approximate 24.98-acre site located east of the southeast corner of Chandler Heights and Cooper roads.

E. PDP13-0005 KRISPY KREME DOUGHNUTS

Approved.

Request Preliminary Development Plan amendment approval of a site layout for a new retail bakery with a drive-through lane. The site is located at 1055 West Chandler Boulevard, southwest corner of Chandler Boulevard and Alma School Road.

Preliminary Development Plan

1. Compliance with original conditions adopted by the City Council as Ordinance No. 2629 in case PL96-001 SOUTHWEST CORNER OF ALMA SCHOOL AND CHANDLER BOULEVARD, except as modified by condition herein.
2. Development shall be in substantial conformance with the Development Booklet, entitled "Krispy Kreme Doughnuts", kept on file in the City of Chandler Planning Division, in File No. PDP13-0005, except as modified by condition herein.
3. The site shall be maintained in a clean and orderly manner.
4. The landscaping shall be maintained at a level consistent with or better than at the time of planting.

F. LUP13-0002 SAGE BAR

Approved.

Request Liquor Use Permit approval to sell and serve liquor as permitted under a Series 6 Bar license for on-premise consumption within a restaurant, bar and an outdoor patio and to have live music indoors. The business is located at 4929 West Chandler Boulevard, Ste. 12, southeast corner of Chandler Boulevard and Rural Road.

1. The Use Permit granted is for a Series 6 license only, and any change of license shall require reapplication and new Use Permit approval.
2. The Use Permit is non-transferable to any other location.
3. 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.
4. 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.
5. The outdoor patio shall be maintained in a clean and orderly manner.
6. Live music and speakers shall be prohibited within the outdoor patio.
7. Music shall be controlled so as to not unreasonably disturb area residents and businesses and shall not exceed the ambient noise level as measured at the commercial property line.
8. No noise shall be emitted from the live entertainment occurring indoors that exceeds the general level of noise emitted by uses outside the premises of the business and further will not disturb adjacent businesses and residential areas.
9. The site shall be maintained in a clean and orderly manner.
10. The establishment shall provide a contact phone number of a responsible person (bar owner and/or manager) to interested neighbors to resolve noise complaints quickly and directly.
11. **All exterior doors shall remain closed and shall not be propped open when live acoustical music, bands, karaoke, or a disc jockey occurs.**

G. LUP13-0006 STADIUM CLUB

Approved.

Request Use Permit approval for floor area expansion to an existing sports bar and restaurant under a Series 6 Bar license. The business is located at 940 North Alma School Road, Ste. 109, southwest corner of Alma School and Ray roads.

1. The Use Permit is granted for a Series 6 license only; any change of license shall require reapplication and new Use Permit approval.
2. The Use Permit is non-transferable to any other store location.
3. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require a new Liquor Use Permit application and approval.
4. Music shall be controlled so as to not unreasonably disturb area residents and businesses and shall not exceed the ambient noise level as measured at the commercial property line.
5. Live music shall be prohibited on the outdoor patio.
6. The site and outdoor patio shall be maintained in a clean and orderly manner.

H. ZUP13-0005 CORNERSTONE CHRISTIAN FELLOWSHIP

Approved.

Request Use Permit extension approval for the continued use of a temporary unpaved parking lot. The subject site is located east of the southeast corner of Alma School and Willis roads.

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 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 in accordance with current Maricopa County regulations. The parking lot shall be maintained at all times in a dust-free and weed-free manner.

I. CANCELLATION OF THE AUGUST 7, 2013 PLANNING COMMISSION HEARING.

Approved to cancel the August 7, 2013 Planning Commission Hearing.

COMMISSIONER RYAN stated he would be abstaining from voting on Item A, Noria, as he was a consultant for the client.

MOVED BY VICE CHAIRMAN PRIDEMORE, seconded by **COMMISSIONER DONALDSON** to approve the Consent Agenda as read into the record by Staff with the additional item as noted. The Consent Agenda passed unanimously 6-0. (Commissioner Baron was absent.)

6. DIRECTOR'S REPORT

Mr. Kevin Mayo, Planning Manager, said there was nothing to report this evening.

7. CHAIRMAN'S ANNOUNCEMENTS

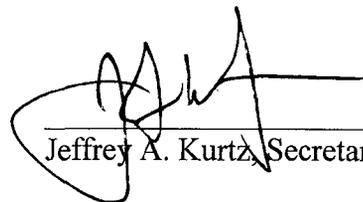
CHAIRMAN VEITCH said the next regular meeting is August 21, 2013 at 5:30 p.m. in the Council Chambers at the Chandler City Hall, 88 East Chicago Street, Chandler, Arizona.

8. ADJOURNMENT

The meeting was adjourned at 5:36 p.m.



Stephen Veitch, Chairman



Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, August 21, 2013 held in the City Council Chambers, 88 E. Chicago Street.

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

Chairman Stephen Veitch
Vice Chairman Matthew Pridemore
Commissioner Andrew Baron
Commissioner Katy Cunningham
Commissioner Bill Donaldson
Commissioner Phil Ryan
Commissioner Devan Wastchak

Also present:

Mr. Kevin Mayo, Planning Manager
Ms. Jodie Novak, Senior City Planner
Ms. Erik Swanson, City Planner
Ms. Susan Fiala, City Planner
Kay Bigelow, Assistant City Attorney
Ms. Joyce Radatz, Clerk

4. APPROVAL OF MINUTES
MOVED BY VICE CHAIRMAN PRIDEMORE, seconded by COMMISSIONER CUNNINGHAM to approve the minutes of the July 17, 2013 Planning Commission Hearing with the change as noted. The motion passed unanimously 6-0 with 1 abstention (Commissioner Baron did not attend that meeting).
5. ACTION AGENDA ITEMS
CHAIRMAN VEITCH informed the audience that prior to the meeting Commission and Staff met in a Study Session to discuss each of the items on the agenda and the consent agenda will be approved by a single vote. After Staff reads the consent agenda into the record, the audience will have the opportunity to pull any of the items for discussion. Items A, D and E were pulled for action.

B. DVR13-0011 TAKE OFF CENTER

Approved.

Request action on the existing Planned Area Development (PAD) zoning to extend the conditional schedule for development, remove, or determine compliance with the three-year schedule for development or to cause the property to revert to the former Agricultural (AG-1)

zoning. The existing PAD zoning is for a commercial development that includes a fuel station on approximately 4.2 acres located at the southeast corner of McQueen and Queen Creek roads.

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

C. DVR13-0021 RANCHO BERNARDO

Approved.

Request action on the existing Planned Area Development (PAD) zoning to extend the conditional schedule for development, remove, or determine compliance with the three year schedule for development or to cause the property to revert to the former Agricultural District zoning. The existing PAD zoning is for a retail building on approximately 1 acre at the southwest corner of 56th Street and Chandler Boulevard.

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

F. LUP13-0011 99 CENT ONLY STORE

Approved.

Request Liquor Use Permit approval to sell beer and wine for off-premise consumption only under a Series 10 Beer & Wine Store License at an existing store. The business is located at 1996 N. Alma School Rd., southwest corner of Warner and Alma School roads.

1. The Use Permit granted is for a Series 10 License only, and any change of license shall require reapplication and new Use Permit approval.
2. Expansion or modification beyond the approved exhibits (Floor Plan and Narrative) shall void the Use Permit and require a new Liquor Use Permit application and approval.
3. The Use Permit is non-transferable to any other location.
4. The site shall be maintained in a clean and orderly manner.

G. ZUP13-0004 VIEN MINH BUDDHIST TEMPLE

Approved.

Request approval of a time extension for a Use Permit to allow a place of worship in a single-family home zoned SF-8.5 (Single-Family District). The property is located at 285 North Comanche Drive, west of Alma School Road and north of Chandler Boulevard. **(REQUEST CONTINUANCE TO THE SEPTEMBER 18, 2013 PLANNING COMMISSION HEARING.)**

H. CANCELLATION OF THE SEPTEMBER 4, 2013 PLANNING COMMISSION HEARING.

Approved.

MOVED BY COMMISSIONER RYAN, seconded by **VICE CHAIRMAN PRIDEMORE** to approve the Consent Agenda as read into the record by Staff with the additional item as noted. The Consent Agenda passed unanimously 7-0.

ACTION:

D. DVR13-0001/PPT13-0001 LA VALENCIANA

Approved.

Request rezoning from Planned Area Development (PAD) Commercial to PAD (Single-Family Residential) for a single-family residential subdivision with Preliminary Development Plan (PDP) for site and housing products design and Preliminary Plat (PPT) approval on approximately 16 acres located at the northeast corner of Pecos and Cooper roads.

Rezoning

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "LA VALENCIANA", kept on file in the City of Chandler Planning Division, in File No. DVR13-0001, 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. Future median openings shall be located and designed in compliance with City adopted design standards (Technical Design Manual # 4).
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. 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. Approval by the Director of Transportation & Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Transportation & Development for arterial street median landscaping.

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. 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 approximate 2-acre commercial parcel shall remain zoned PAD for neighborhood commercial C-1 uses, as adopted by Ordinance No. 2699 in case PL96-114, if not developed as a part of the single-family residential development. The commercial parcel shall require separate Preliminary Development Plan application and approval.

Preliminary Development Plan

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "LA VALENCIANA", kept on file in the City of Chandler Planning Division, in File No. DVR13-0001, except as modified by condition herein.
2. The landscaping shall be maintained at a level consistent with or better than at the time of planting.
3. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or association.
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. The tot lot shall be a minimum of 20 total play stations.
6. All homes built on corner lots within the residential subdivision shall be single-story or a combination of one- and two-story with the one-story portion on the street side.
7. The same elevation shall not be built side-by-side or directly across the street from one another.
8. Lots 1 through 22 shall be constructed with single-story homes only.
9. No more than two, two-story homes shall be built side-by-side along Pecos Road.
10. No more than two identical side-by-side roof slopes should be constructed along the arterial street, Pecos Road.

Preliminary Plat

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

MS. JODIE NOVAK, SENIOR CITY PLANNER, stated this is a rezoning application that also includes the Preliminary Development Plan and a Preliminary Plat. This property is on the northeast corner of Pecos Road and Cooper Road. It is approximately 18 or so acres. What Ryland Homes is proposing is developing 70 single-family residential lots. They are about a minimum of 6500 square feet in size. They will have about 7 housing plans and a mix of one

and two-story homes. The project has been reviewed by the Planning Division Staff and is in conformance and meets the intent of our adopted Area Plans for land use, our Residential Development Standards for house and product quality design and architecture as well as the subdivision layout and the diversity standards for creating a good neighborhood.

Through this process, this case had been worked on since the end of 2012 and came in at the beginning of 2013. They have been working on this project for quite a long time. It does include 2 parcels that are currently in place. They are both separately owned by individual owners. Ryland Homes has hired Bowman Consultant as the applicant on this case. Both property owners have consented to this zoning case being filed for the request for this to be a single-family residential subdivision. Currently the property is zoned PAD for a neighborhood commercial use which is consistent with the land plans for that particular area. The request would be to rezone all of this property for the single-family residential use. The development request and the development booklet have 2 options in there. The option 1 is to develop the full 70 lots for the whole single-family subdivision. This would include both properties being rezoned. The option 2 component of the development would be about a 2 acre commercial component of the neighborhood commercial that is at the immediate intersection corner remain as commercial which would then reduce the single-family development to approximately 58 lots.

The reason there are 2 options with this development request is that the corner parcel was formerly owned by Exxon Mobile. In their deed restriction they actually have a statement in there that prohibits any form of single-family residential from occurring on that land. That is something that is typical; that the gas station company would do just more of a covering themselves in case there would be any environmental contamination or something in the future where some homeowner might come back to them. They have been considering removing that deed restriction with the property owner of the 2-acre parcel for about a year now. Ryland Homes has been working with that 2nd property owner to develop that land as a part of the single-family but just recently learned that they still have not gotten Exxon Mobile to finalize getting rid of the language off of the deed restriction. Therefore, they have worked with the applicant, Bowman Consultant and their attorney to have another option that shows that if that deed restriction is not removed from that 2-acre parcel, it can still retain itself as the commercial that it is currently zoned, which is reflective in stipulation no. 11 in the rezoning components of the recommendation here.

What they have learned just today is that the property owner of parcel 2 is now contesting this development request and has some concerns about how this would affect him developing his property in the future. Note that he has been very aware of the land use entitlement, what is required for zoning, what is required for preliminary development plan, what are the commercial building setbacks and so forth related to the single-family residential land use. That property owner has been a part of this application the entire time. Her understanding is that a representative of Rose Law Group law firm as of this morning made them aware that the property owner of the 2 acre piece now has concerns and may or may not want to be a part of this project any longer. The whole entire development team is clearly aware of that as of today. We will this evening first hear what they have to present before them.

From a Planning Staff standpoint as was mentioned at Study Session, they are confident in support of either of the 2 options. They have looked at that commercial corner and they know it can get developed. They have seen how it can meet all of their development code standards. They feel that it is designed compatibly with the single family, with the extra landscape buffer, the pedestrian access that has been provided and it would be very well integrated with the residential community that is proposed. If it all becomes single-family residential, they are o.k. with that as well which is why they had the 2 options, both site planning and landscape planning in the development booklet. The plat as was mentioned at Study Session is representing everything as single family. If this property owner on the 2 acres does not wish for his property to go single family or does not get the deed restriction removed, it will remain as it is, the plat won't come back through us and will be reflective of that as an exception piece for commercial and will stay that way, which is the way it has been for probably about 20 years.

At this point, Planning Staff is recommending support for this development. They do have conditions for both the rezoning and the preliminary development plan as reflected in the Staff Report she has prepared for them. They are not aware of any form of opposition or concerns with this project other than what she has stated. They did work with the Kempton Crossing community very well and their HOA. They have the stipulations in place to ensure that all the lots on the north end will be one story homes only because the homes in Kempton Crossing are one story homes only as well. Ms. Novak said that if they had any additional questions, she would be happy to answer them.

CHAIRMAN VEITCH asked if there were any questions of Staff at this time.

STEPHEN EARL OF EARL, CURLEY & LAGARDE stated that he is there on behalf of Ryland Homes and the President of the Arizona Division of Ryland Homes who is with him tonight. He said that Staff did an excellent job of describing to them the challenges that they have had over the past year because of the fact that there are 2 owners. There is a 2-acre commercial corner owned by one entity and then the balance of 16 acres owned by another entity. That made it a little bit challenging to figure out how to develop the property because they were informed that the 2-acre commercial corner just purchased by the current owner 3 years ago in 2010 had a deed restriction in it that prevented it from being used for residential purposes. They went into escrow with both owners to develop the project they see here on the board, which has residential all the way to the corner and that was based on the owner of the corner being able to remove the deed restriction that was a 50 year deed restriction with Exxon Mobile. Over the course of the last 8 months, they have kind of waited for that to occur and it hasn't yet occurred. They finally said with Staff last fall around December, why don't they do 2 plans. Let's do one with the corner being developed residentially and one without because they can't predict what one of the largest companies in the world is going to do with that deed restriction. So they worked with Staff and Staff was kind enough to let them come up with a plan that will remove the corner and allowed it to retain its current commercial zoning. They can see that what they tried to do was internalize their setbacks against that commercial corner so they could be developed compatibly with them. They can see that on the north side of that corner parcel of 2 acres is open space so no home backs up to the northern side of it and on the

eastern side of it they created a 21-foot track of mature landscaping and an 8-foot wall to protect the 3 owners on that side.

Now in fact there is only Ryland Homes that would own the property and there won't be any homeowners there for about 14 months. Ryland Homes has absolutely no problem with the commercial corner retaining its commercial; that is why they have the 2 options. They do not object to any legitimate commercial use from gas station to bank to retail PAD to a restaurant. All those are legitimate uses that the City may choose to approve there. If they wanted to process a PAD amendment since their property is zoned PAD now to reduce setbacks given the fact that they have created internalized setbacks on their property, they wouldn't object to that either. As Staff has noted, they are also willing to have a pedestrian access and build a sidewalk. They are trying to do everything they know how to do to make this work and today for the first time they found out that they may not want to be a part of the case or they want a continuance. They created the 2 plans so they wouldn't have to continue this and of course spent months and months trying to get this resolved and finally at this point they feel that either plans works just fine for them. They think both plans are an excellent use of the property. It has been vacant now for over a decade after Kempton Crossing was built and it is not a favored commercial corner. He has an exhibit that shows that within a mile of the subject site in yellow, they have both regional commercial where the Home Depot and a Walmart is on the south side of the 202 to neighborhood commercial to the west within a mile or a mile and a half. So these folks who live in this area certainly have commercial services and that is probably why this property has never developed and that is why the City Council adopted a policy that when you have unused commercial land it should be put to productive use. There is also a commercial corner on the west side of this intersection which would be the northwest corner which is a larger parcel next to a church that would not have any adjacent residences and could be developed commercially and they hope it is.

For all these reasons, they believe that this is an appropriate case and they appreciate Staff's recommendation of support and are in agreement with all of the stipulations. If the owner of the commercial parcel doesn't want to be a part of the case, he can tell them and they have an option that doesn't require him to be a part of the case. They would prefer to not continue the case given the fact that they have worked all this time and their phone numbers are in the book. They could have received a call from them. They have tried to reach them. That is his presentation and he said he would be happy to respond to any questions.

CHAIRMAN VEITCH asked if there were any questions for Mr. Earl.

COMMISSIONER RYAN asked Mr. Earl that if they were to make a motion tonight on his project, they would be o.k. if they just selected the option that was void of any residential on that corner? Mr. Earl replied that if the owner of the 2-acre commercial corner does not want both options to proceed and actually wants to be withdrawn from the case, then option 2 would be the only option that could proceed. Candidly, they keep telling us that they are going to get this deed restriction lifted and they will notice that the plat in their packet assumes that the corner will be developed residentially. They have been going a long time on this assumption. Unless they say

they want out they have been going forward with both plans as the appropriate thing at this point to allow them to buy the property should they get the deed restriction lifted. Again, it is up to them. They want out, they will let them out.

CHAIRMAN VEITCH said he had one speaker card from Cameron Carter of Scottsdale who he thinks represents the owner of the 2 acres.

CAMERON CARTER WITH THE ROSE LAW GROUP, SCOTTSDALE, ARIZONA, said that is correct. He represents Nextgen which is the owner of the 2-acre currently zoned PAD commercial property that is part of this rezoning request. As their Staff laid out for them, there is currently a deed restriction on this 2-acre property for the benefit of Exxon Mobile. They have been working vigorously over a several month period to get that removed and they are close. As they speak, it is difficult to make the largest company in the world move for a 2-acre vacant piece of dirt somewhere in Arizona that they don't even know about because they never actually built on it. The restriction is unnecessary but they have been working and they have given them indications that they are willing to remove it. Most recently they had told them that the process would be finished in July. They came back and asked us for an additional Phase I Environmental Study for the property, which is totally unnecessary because the property was never developed. Nevertheless, his clients Nextgen paid for that Study and sent it to Exxon showing again that the property was free and clear of any contaminants of any sort. They have satisfied all of Exxon's requirements and they think they are close. So they believe that the best interest of the City and everybody that this property be ultimately developed for residential uses. That said the proposal that is before them tonight has 2 options and option 1 for all residential for the complete 18 acres and then option 2 contemplates that this property is left out and the current PAD commercial zoning remains. That is where his client has some concerns and frankly their concern is that rezoning a portion of or the adjacent property to residential and now having a residential adjacent to commercial situation does impose some additional development restrictions on this property specifically related to building height and allowed building height and additional setbacks that are required. He understands that there is a process for adjusting those additional setbacks. They haven't engaged in that process to date. They are requesting a continuance tonight. Number one, so they can get this restriction removed from Exxon.

They are requesting a continuance to the September 18th hearing in one month. They believe that restriction will be lifted within that time and at that point they can go forward with Option 1 and everybody will be happy. If not, they are requesting that during this time they would continue to work with Staff and with the adjacent property owner to satisfy those additional restrictions on the commercial property. Whether that means an amendment to this PAD and tweaking that so they can memorialize that those additional setbacks are not impacting the commercial development on the 2-acre site or a PDP that memorializes those, aren't part of this plan. The current proposal for the rezoning and the PDP contemplate residential but it doesn't mitigate the additional impact on the commercial property. They are requesting more time to be able to deal with those concerns and they believe in one month time until the September 18 hearing, it is appropriate to do that. He thanked the Chairman and Commission and said he would be happy to answer any questions.

CHAIRMAN VEITCH asked if there were any questions for Mr. Carter.

COMMISSIONER BARON asked if they are o.k. and they believe that the deed restriction will be lifted in one month and this case contemplates an option 1 and 2, why would they want it continued if they can build either within a month. They are going to be working on construction documents anyhow. Is he missing something? Mr. Carter replied they believe that the restriction will be lifted within that time but there is no guarantee of that and so in the event that the restriction is not lifted, they feel that option 2 is inadequate to address his client, the property owner's concerns and to adequately insure that they can develop their property on the 2-acre parcel as they had previously planned. **COMMISSIONER BARON** said so they are not 100% confident that it is going to be lifted? Mr. Carter said he cannot control Exxon Mobile but he wished he could. **COMMISSIONER BARON** said fair enough that was why he was asking the question.

CHAIRMAN VEITCH asked why doesn't the 2 track approach that Mr. Earl has outlined, which while a little bit unorthodox, the City has gone along with at least to this point, why isn't that sufficient in order to let you continue to do what you are doing and reach a good resolution? Mr. Carter responded that their client has been part of this application, they have consented to the application. The 2 prong approach certainly does address this issue of the restriction and they appreciate Staff's support of that and in working with them on that. The issue here is simply that option 2 in the event that restriction is not lifted in the time that this does move forward beyond the rezoning stage, in the event that option 2 becomes necessary, it does not currently and adequately address their concerns as far as developing the property. It doesn't address the additional restrictions that are placed on the 2 acre piece as a result of having now residential adjacent to commercial. The 2-acre property currently is zoned PAD commercial. Option 2 retains that zoning but the current zoning is adjacent to commercial property and under the city zoning ordinance when commercial property is to be developed adjacent to residential, it is subject to additional restrictions but in this case it needs to be dealt with adequately by option 2 and they have not been yet.

COMMISSIONER RYAN asked has Nextgen given Ryland Homes the authority as their agent to prepare a plan on their property. Mr. Carter replied that his understanding is that Nextgen is not the applicant for this rezoning case but they did consent to Ryland Homes processing the rezoning for this property but the current proposal doesn't adequately meet their needs.

CHAIRMAN VEITCH said his understanding was that the owner of the 2-acre parcel was a signatory to the application. Ms. Novak, Senior City Planner, said Exxon Mobile doesn't own that property but his client Nextgen full out 100% owns it. Exxon wasn't even a part of this except there is a legally recorded deed restriction just like a homeowners association that he pulled up and saw some stuff that he probably didn't research when he bought this property, which he probably should have early on. She thinks that would answer that question. As far as the application goes, when an application is filed there is a formal applicant. That could be anyone; an architect, engineer, property owner, zoning attorney and they are the point of contact

and the ones processing this on behalf of property owners. If the applicant wants to file it on behalf of the property owners, the property owner will have to sign a letter of authorization form consenting for that applicant to represent their land for what they are requesting. That has been completed. Both the property owner of Ryland's piece as well as Ryan Speakerman who owns the 2 acre have both signed their letter of authorizations for Bowman to file a request to rezone their land to residential on their behalf. They actually put that stipulation in place only because of the fact that a year has gone by and he has been conveying that he hasn't been able to get that deed restriction removed. She didn't think 4 more weeks was going to make a difference for that to be removed or not be removed. The discussion that she has had with the attorney before them this evening was that he may want to come in with his own PDP and he wants his PDP tied to this zoning case representing whether he wants to put a gas station or some other commercial use there and wants to ensure the City is going to be o.k. if he maybe wants reduced setbacks. If you have commercial next to residential, they have that 25 foot setback plus 1 foot for each foot of height for the building. They have already proven that this site can be built with a commercial use. They have a site plan that they have worked with. All the applicants and the property owners on that show how a commercial building can meet the building setbacks and the access where the driveway would be and the landscape intersection setback. They don't have any issue with that because they have already seen that. Maybe his client doesn't agree with that because his client has a different intention for the use that he wants there but to continue the case specifically to see if the deed restriction is going to go away that may not even happen. He is saying that they want the ability to research and look into and have their concerns addressed. Their concerns are the fact that after a year or more this property owner now realizes that he didn't research this and he might have these additional setbacks for what I want to do because it will be a residential zoning next to me and now he may not be able to get what he wanted when he bought the property 3 years ago. That is really that in a nutshell and what the situation is at this point.

They feel what has been explained already is that the option already covers the needs for this property owner. If the deed restriction is not removed, he still has his C-1 regardless but he will have to come in with a PDP case at any point to develop it for C-1 uses. If he wants to do a gas station or other use that is now allowed under the C-1 of that PAD, he would certainly need to come in and do a rezoning anyway to amend it. They have had that discussion with them for quite a long time – that has been well made aware of to that property owner. She wanted to give them that background as well this evening.

GLENN BROCKMAN, ASSISTANT CITY ATTORNEY, said it seems to him that at this juncture as he understands it, the applicant has the permission of both the landowners of all the property involvement including the 2-acre parcel to apply for and seek rezoning for a residential use. This gentleman is talking about concerns related to how that will impact a commercial property that this application initially expected would not exist once the zoning got through. It seems to him that the issues that this gentleman is raising, either his client should now state that they are withdrawing from this application and they can proceed that way or else stay as it is and let this body make its recommendation to Council and between then and now maybe they will

get an o.k. from Exxon Mobile, maybe they won't, but they can address the issues he is raising now at the time Council hears the matter.

MR. CARTER said while he appreciates Ms. Novak's summarization of their position, the intent of option 2 is to preserve the existing entitlements and development standards for the 2-acre parcel. The applicant is aware of that. That was their intent; that is Staff's intent in processing the application with option 1 and option 2. The reality is that option 2 does not fully preserve that because of the additional development restrictions imposed when the remaining commercial property is now subject to or adjacent to residential property. All they are asking for is additional time so that they can fulfill that intent by ensuring that option 2 maintains those standards. He is not prepared tonight and he doesn't have authorization from his client to withdraw the 2-acre parcel from the application and so their request again is that this be continued until the September 18 hearing.

CHAIRMAN VEITCH said to Commission that their legal counsel has indicated and he thinks he is right about this but both property owners have already consented to be represented by the applicant and unless there is a withdrawal, he thinks that is where they are. He asked if there were any further questions of Mr. Carter.

COMMISSIONER CUNNINGHAM had a question for Staff. If Ryland Homes wanted to develop their 16 acres, they wouldn't have had to consult the 2-acre parcel owner at all on the rezoning other than to notify them and let them come and speak their objection. Correct? Staff said that was correct.

CHAIRMAN VEITCH asked if there were any other comments from the audience at this point. There were none.

STEPHEN EARL said he wanted to make this clear that the owner of the corner parcel has known about this duality and proposal for months and months. In fact, they had specific meetings with Staff probably this time last fall as they moved forward on this dual tract. For them to come today and say they are now concerned about the tract that does not include their property, they have every ability to have their property included in this. All they have to do is remove the deed restriction and if they can't, then they will develop their property residentially; they will still have their commercial zoning on their property. They are willing to allow any commercial zoning and any use that is legitimate under the ordinance. They have internalized their setbacks so they can certainly come forward with their own plan. That is their choice and maybe even reduce some of their otherwise required setbacks because they have created their own internalized setbacks. The last thing they want to do is after a whole year is continue again.

CHAIRMAN VEITCH said there are 3 recommendations before them. One is for rezoning of the entire 18 acres. The 2nd is for the approval of a Preliminary Development Plan also covering the entire 18 acres which is in effect option 1 as they have heard it. Finally, a Preliminary Plat for that same 18 acres and 3 separate motions would be involved.

GLENN BROCKMAN, ASSISTANT CITY ATTORNEY said he had a question for Staff on the Preliminary Development Plan approval. There is nothing from their perspective that would preclude the Commission from recommending either option at this point. Is that correct? Ms. Novak, Senior City Planner, said that would be their prerogative. They don't have any concern with that because they are both valid. **MR. BROCKMAN** said they don't have to necessarily make the choice of going option 1 or option 2. If both of them are acceptable to the Commission, then it just moves forward and the ultimate option will occur through Council. Ms. Novak said correct, through the plat.

CHAIRMAN VEITCH said so are they to think of the Preliminary Development Plan as actually a 2-pronged item and for that matter the rezoning as well. Ms. Novak replied that the Preliminary Development Plan includes both of those options. So the zoning condition that says development shall be in conformance with the Exhibit "A" development booklet which gives both options, and then they have that condition in place that helps that property owner of the 2 acres understand that he has his commercial rights just as he does right now and for some reason if it doesn't become residential. **CHAIRMAN VEITCH** said our motions are prepared in such a way that it accomplishes that. He asked if there was any further discussion on the part of the Commission.

MOVED BY COMMISSIONER RYAN, seconded by **COMMISSIONER BARON**, to approve the rezoning request DVR13-0001 for PAD commercial to PAD single-family residential subject to the conditions as recommended by Staff. The motion passed unanimously 7-0.

MOVED BY COMMISSIONER RYAN, seconded by **COMMISSIONER BARON**, to approve the Preliminary Development Plan under case DVR13-0001 for a single-family residential development subject to conditions as recommended by Staff. The motion passed unanimously 7-0.

MOVED BY COMMISSIONER RYAN, seconded by **COMMISSIONER BARON**, to approve the Preliminary Plat for PPT13-0001 subject to the conditions as recommended by Staff. The motion passed unanimously 7-0.

CHAIRMAN VEITCH stated this would go to Council on September 12, 2013.

D. PDP13-0004 THE RESIDENCES AT BELMONTE

Approved.

Request Preliminary Development Plan approval for housing product for an 83-lot single-family residential subdivision. The subject site is located south and east of the southeast corner of Chandler Heights and Gilbert roads.

1. Development shall be in substantial conformance with the Development Booklet, entitled "The Residences at Belmonte", and kept on file in the City of Chandler Planning Division, in File No. PDP13-0004, except as modified by condition herein.
2. Compliance with original conditions adopted by the City Council as Ordinance No. 3601 in case DVR04-0009 REID'S RANCH, LANDING AT REID'S RANCH, AND AMBERWOOD HEIGHTS, 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 homeowners' association.
4. Approval by the Director of Transportation & Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Transportation & Development for arterial street median landscaping.
5. 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.
6. The same elevation shall not be built side-by-side or directly across the street from one another.
7. The applicant shall work with Staff to provide additional landscape terracing along the Chandler Heights Road frontage.
8. The applicant shall provide trees consistent to development standards along the landscape tract adjacent to Gilbert Road.
9. Homes located on corner lots as well as, lots 10, 12, 47, 48, and 58 shall be restricted to single-story homes.
10. Lots backing up to Wood Drive shall be restricted to no more than two, two-story homes adjacent to each other.

ERIK SWANSON, CITY PLANNER, stated this is a request for Preliminary Development Plan approval for housing product for an 83 lot single-family residential subdivision located at the east and south of the southeast corner of Chandler Heights and Gilbert roads. He said he would give them some of the background which he believes is what is stemming some of the concerns being expressed and that is that this subject site was part of a larger master planned community that Kevin alluded to in the Study Session. During that point in time, the housing product for the proposed site was presented as either being custom or allowing for production housing which was part of that master planned community. At that point in time the subdivision was roughly 63 lots. In 2011, the home builder came through and requested a new PDP which maintained the same subdivision layout; however, it increased the lot count from 63 up to 83. At that point in time, they also presented its housing product. The housing product that was being presented included 4 single-family homes, the square footages ranging from about 1800 to just shy of 2300 square feet. That went through without any opposition and no concerns and was ultimately approved. The current request is from a homebuilder that has acquired that property and what they are doing is they are proposing their housing product on this site and so they are presenting 7 homes, 7 different floor plans, 4 of them are 2 story and 3 of them are single story. Again, it is important to note that there has always been the ability to develop 2-story homes on

this site with the exception that the last homebuilder opted on their own accord to say they will just do single-story homes.

Some of the concerns that have been expressed through various neighborhood meetings and contact with staff are that there is a concern that this subdivision and the surrounding community is largely single story and that this subdivision should also be restricted to that. When looking at this site in comparison to the rest of the subdivisions around the area, they have a subdivision to the south which is Mesquite Groves. They are in fact an all single-story subdivision. When that subdivision was approved, it was not done by outside forces imposing the condition on it. It was something that the homebuilder themselves opted for - the single stories. Additionally, the TW Lewis master planned community, Valencia II to the east, had a number of various parcels in there. Some of those parcels opted again by homebuilder choice to restrict them to single-story. It is important to note that there are also 2 story homes in that subdivision as well. North, again in the Reid's Ranch master planned community has the option for both single and two-story. Similarly to the west of Gilbert Road, that subdivision also allows for single and two-story homes.

Any time that there has been the imposing of single-story restriction it has all been by choice from the developer and so as these issues came up in the neighborhood meeting process, the current developer agreed to restrict properties along the east side of the subject site to single story to match what is the case in Valencia II. Based on a number of concerns expressed by the neighborhood to the south, the developer also agreed to restrict the amount of two-story homes along Wood Drive. As he has noted in his Staff memo, that is typically something that they will do for arterial streets to restricted corridor of two-story homes, which the developer is aware of and agreed to and that also applies to Chandler Heights. With all of these modifications being made and the agreements by the developer, Staff is certainly supportive of what is being presented from a housing product standpoint. As Kevin stated, it does meet our Residential Development Standards, it meets the requirements outlined in the Southeast Chandler Area Plan. Again, the developer has opted on their own to have some of these additional restrictions to help the neighborhood to the south and address those concerns. With that, Planning Staff is recommending approval and he said he would be happy to answer any questions.

CHAIRMAN VEITCH asked if there were any questions for Staff. There were none. He asked Mr. Swanson to put the subdivision on the overhead and point out to them the lots that are restricted to single story and the areas where the no more than two side-by-side two story restriction would go. He said they have a number of restrictions that kind of dovetail together.

ERIK SWANSON, CITY PLANNER, showed the subject site. They have Mesquite Groves to the south and then Valencia II to the east. This parcel of Valencia II is restricted to all single stories and then Mesquite Grove is all single stories. What the developer has agreed to and they can see on this exhibit, where all these darker stars are, they have agreed to single story homes. This home down here (he showed where) they did not put that restriction on there simply for the reason that piece is a city well site. There is no adjacent homeowner there. All along Wood Drive there is a lighter shade of grey on all these parcels for the stars as well as on Chandler

Heights. That restriction is no more than two two-story homes adjacent to each other. Again, that is a restriction that they usually apply to arterial but they have gone ahead and opted to include that along Wood Drive. In addition to that, they have also agreed to do no rear balconies on any of those two-story homes to help kind of preserve the neighborhood to the south and their privacy, if there is that issue. That is kind of it in a nutshell for what this subdivision is trying to do to mitigate any of those concerns with two-story homes.

CHAIRMAN VEITCH asked roughly what would be the separation of lot line to lot line between the homes on the north side of Wood Drive and the homes on the south side of Wood Drive. Mr. Swanson replied it looks like it's about 88 feet. What you will have is the homeowner's home on the south side of Mesquite Groves, then you have the backyard, their wall, a landscape tract, right-of-way, landscape tract, Residences of Belmonte property line wall, backyard and then the two-story home. That equates roughly about a 160 feet.

MARIO MANGIAMELE, IPLAN CONSULTING, CHANDLER ON BEHALF OF TAYLOR MORRISON HOMES, stated that Staff has done an extensive job with their presentation both during this hearing as well as the Study Session. He said the exhibit he is putting up is the same exhibit that Staff had just illustrated to you. It's the exhibit that they did a lot overlay onto the aerial to show them their self-imposed limitations for the project.

As Staff has indicated, they purchased 83 entitled lots on this property. They already had zoning approval, subdivision plat approval, and residential product approval. This property was ready to move forward with development impact and if you have driven by this site recently, they will see that they are out there doing the site improvements based on the previously subdivision for this property. However, in further looking at the residential housing product for this development that was previously approved, Taylor Morrison did have concerns. The concerns were that they did not anticipate building some other builders product. They had concerns with the design or lack of detail with the design that was previously approved for this project as well as the square footage. As Staff has indicated, the homes previously approved for this property were 1800 square feet up to 2300 square feet, which was the largest home. The adjacent neighborhoods have homes that are much larger; the Valencia subdivision to the east as well as Mesquite Groves and the William Lyons to the south. They felt compelled or a need to increase the building area as well as the design quality for the homes to really be a better fit within the context of this neighborhood. Therefore, they opted to go back through the PDP process which is why they are here today, which is to amend the PDP or Preliminary Development Plan to modify the building architecture as well as the floor plans. As Staff has indicated, they are bringing forward to them 7 different floor plans, 3 are those are single story, 4 of those are two-story. They have at least 3 different architectural styles so what they have are a variety of about 21 different variations that could be built throughout the community.

In working with the neighbors, in his opinion they have done some pretty extensive public outreach on this particular project more so than they have done other similar projects. They realized that this is a change for the neighborhood and they wanted to reach out to the neighbors to find out what could work and what would fit best with these neighbors and find out if they had

any concerns or issues with this. He doesn't want to speak for the neighbors he is just kind of summarizing what has transpired. They have largely concerns with the amount of two-stories that were being proposed for this development. They have gone through the development and self-imposed one story limitations on a number of lots throughout the development. Primarily those along the east project boundary. The neighbors along the southern project boundary across the collector level street, they also had similar concerns with respect to the amount of two stories being proposed along Wood Drive. In his opinion this is a little different situation. Yes, Mesquite Grove and the William Lyon homes are all one story homes. Again, they are separated by a collector level road. They are not immediately contiguous to a project boundary. He has been trying to work with the neighbors and trying to work out the best solution that they felt would benefit all, not only us but as well as the adjacent neighbors. They have agreed to not only limit the corner lots to a single story but also take the Chandler's typical or generalized condition they have for homes backing on to arterials of no more than two, two-story homes in a row can be built backing on to the arterials. They felt that by offering that similar stipulation or limitation on the lots backing up to Wood Drive that it would help alleviate some of the concerns. The concerns that he has heard from neighbors are with respect to privacy.

He heard some questions come up from the Commission on what is the distance wall to wall. He believes Staff identified that distance is approximately 89 feet from wall to wall. They had their engineer, Atwell Engineering prepare this exhibit. What they are showing is the back of the existing homes within Mesquite Grove to the back of the rear building within Belmonte. Now that he looks at this exhibit again, he believes the rear building may even be shy a few feet. It appears to him that is a 20 foot rear setback but they have agreed to provide 30 foot rear setback for single story on those homes there and he believes a 40 feet setback for the two-story further adding additional buffer for the homes. Assuming this is only a 20 foot setback, the worst case scenario if you will; the closest home is about 4 lots in from one of the primary points in the Mesquite Grove off of Wood Drive. That is about 144 feet which is just shy of the width of a football field to give you an analogy. Again, the concerns they heard were privacy and few were concerned with residents living in two story homes may be peering down into their one story homes, which they understand. They are trying to be sensitive to that to the best of their abilities and of course provide these limitations and also as Staff has pointed out, they have agreed to actually remove and prohibit any two story balconies throughout the entire subdivision, not just along Wood Drive. They have taken those out of the entire subdivision as well.

He said they do believe that this proposed development is a good fit for the community and is consistent with all the applicable policies, goals and guidelines of the City and they do believe it is going to add value to the neighborhood and really be a good fit. He said he would be glad to answer any questions that Commission members may have.

CHAIRMAN VEITCH asked if there were any questions for the applicant.

COMMISSIONER BARON asked if the existing PAD/PDP case had any restrictions on any of the lots to one story. Mr. Mangiamele replied that to the best of his knowledge the existing restrictions are consistent with what Chandler's general restrictions, lots backing on to arterial

streets, corner lots, etc. Outside of that he doesn't believe there are any other restrictions for single-story. Mr. Swanson, City Planner, replied that they had two different products that came through here. With the original case they agreed to limit that east side to single story and then there was the historical single story on corner lots. With the new approval or the most recent approval, they just did all single-stories on their own and so they didn't have to apply that restriction. Just moving forward it was an easy solution. **COMMISSIONER BARON** said when you say recent approval, was that amendment to the PDP or was that administrative? Mr. Swanson replied it was an amendment to the PDP. They went through the hearing process. What this request does is almost take it back to the original approval. **COMMISSIONER BARON** said he had a question on the landscape plan. He is assuming that the intent is to maintain the scale of the trees that are shown on this schedule. He is seeing some big trees, 48 inch boxed, 54 inch boxed, 36 inch boxed. Is that consistent with what they are installing? Mr. Mangiamele replied that it is consistent with the approved plans. When they look at the landscape plan for this particular project, it is above and beyond what is typically required for a community this size. This project is going to be extensively landscaped. It also gated and they have gone through extensive design and cost for this. The open space amenity packages are fairly extensive for a community of this size. **COMMISSIONER BARON** said what he is wondering is if they shared with the neighbors the scale of the plant material and how that visually may break up any concerns that they may have. Mr. Mangiamele replied that was a good question. Early on from what he recalls from one of the neighborhood meetings is that they had addressed the issue with respect to what he considers the buffering in the distance of this retention area and buffer area along Wood Drive and that those trees will help mitigate any sort of privacy issues. Unfortunately, it didn't seem to matter in their opinion. They were still concerned with the amount of two stories within that location.

COMMISSIONER WASTCHAK said they had agreed that you would have a 40 foot setback for a two story backyard and 20 for a single. He isn't seeing that on his plan. Mr. Mangiamele said minimum rear yard setback is 30 feet for all two story dwelling units for lots backing on to Wood Drive. So it is 30 feet and the one story can actually go down to 15 feet. **COMMISSIONER WASTCHAK** said he sees 15 and 20 on the plat. Mr. Mangiamele said he is actually looking at the development regulations in the PDP amendment where they were actually modifying those and increasing those setbacks. **COMMISSIONER WASTCHAK** asked if that was going to be in the stipulation. Mr. Mangiamele replied that generally the PDP development booklet is adopted by an Ordinance so it is codified. They are bound by those regulations. Mr. Swanson, City Planner, stated it is not going to be an ordinance so it won't be in that regard. The PDP will override in essence what the plat does. The plat was actually done as part of the original approval of 2011 so it is taking some of those comments that were approved at the point in time and with this making modifications to that so their PDP will override this and so those larger setbacks would apply. **COMMISSIONER WASTCHAK** said he was looking at the narrative and wondered if they are limiting balconies and actually restricting that. Is that actually then set forth in the PDP that there are no balconies? Mr. Swanson replied that he thinks that it was something that they agreed upon prior to the printing of the book so it's not represented in the book and he doesn't think there are any balconies shown on the elevations. Mr. Mangiamele said he could answer that question. They have taken

all the two story balconies off the elevations and floor plans. Even as an option they are not even going to be permitted within the community. He said they would entertain an added condition to prohibit two story balconies in this community. That is not a problem whatsoever. **COMMISSIONER WASTCHAK** said if it is not shown as an option on any of their plans, he doesn't think it is necessary.

KEN GAYLORD, 3100 E. CEDAR DR., stated that Mario has been wonderful to work with and they have had some good meetings and discussions regarding the residents and the two stories being built. The two stories are not the only issue here. The elevation between the homes that are being built and our elevation is considerably higher. When you are standing in the back yard of the homes that are being built by Taylor Morrison, they are actually almost level with their fence line, maybe just a shade lower. Although there is an 80 foot distance between their yard and the homes that are being built, still the elevation is quite a bit higher. That is certainly a concern for the residents along Wood. The other concern that he has and the residents along Wood is that there are 6 homes along Wood. If they look from Gilbert all the way to Lindsay, up to Chandler Heights across all the way back down to Gilbert Road again, they are all single story homes with the exception of some two-story homes in TW Lewis. He thinks there are four and they are all in the interior of TW Lewis. All of the homes located in that particular area are all sprawling style large lots – high end homes. When you look along there it is all single-story homes. Taylor Morris has made some concessions and they want to put no more than two, two-story homes, then a single story and then a two-story again. If you look at the plot, they can put 7 two-story homes in a span of 4 houses along Wood Drive that are the Mesquite Groves Estates. Aesthetically, looking down Wood they are looking at a row of two-story homes. He doesn't think it fits in with the community and he doesn't think it fits in with the neighborhood. It fits in with what the original design was for that particular area. The concessions that were made regarding the balconies, he doesn't know that those were offered on those homes originally. Another concern they have is aftermarket balconies and things of that nature that can be built on. He is sure there are going to be extended patios that are going to be built along the backs of their homes and they envision maybe some spiral staircases going up to the top of those balconies. There is a great view of the San Tans looking out that way and so they are a little bit concerned about that too. Again, there is nothing in writing that these cannot be built. He would like to see something that would prohibit that from being done. With the concessions that were made he is confused as to why all the homes that back up to TW Lewis are all single-story homes. Two thirds of the homes that are being built along Chandler Heights and down Gilbert Road are all single-story homes but yet along Wood Drive there is no restriction there. He would really like to see that changed to all exterior homes be single story homes and then interior homes can be two story homes.

VICE CHAIRMAN PRIDEMORE asked if his house is on the picture shown on the overhead and asked him to point it out for him. Mr. Gaylord pointed out his house.

CHAIRMAN VEITCH said he had a question for Staff regarding the grade differential that has been testified to just now. Can he speak to that? Mr. Swanson, City Planner, looked at the plat

briefly but he couldn't find any numbers. It is nothing he could give him a definite answer on. **CHAIRMAN VEITCH** said perhaps the applicant can answer that.

MR. MANGIAMELE said regarding the grade differential they actually did hear this at the last neighborhood meeting. They did go pull the as-built plans and he was able to get a hold of William Lyon homes from Mesquite Grove and get a copy of their as-built plans as well. The worst case scenario they are looking at 3 or 3-1/2 feet and it is only for about one lot. The majority of the grade differential between the finished pad for the homes and for the adjacent subdivisions average around 1-1/2 to 2 feet in maximum. There is one case that is around 3 to 3-1/2 foot. What is going to happen though is when you look at that grade differential, the rear wall will be built at pretty much the top of grade. It is not going to be a matter of the walls hanging down lower and you might have a two-story sitting higher. That is not the case whatsoever. It is the wall being built on the top of the grade to help better buffer or screen those homes from Wood Drive. That is also a concern of theirs and they wanted to make sure they have some sort of security and privacy for their future residents.

MR. RIGGS, 5091 S. GILBERT ROAD, showed where he lived on the map. They have concerns about two-story houses behind that are looking into their backyard. He knows there is a street there but that is still not a lot of distance. Originally with Amberwood Homes they had an agreement that they wouldn't build any two-story homes adjacent to their property. He didn't know if that carries through with this sale and all that. He hasn't researched that. They have concerns about two-story homes along there and they would like those to be single story. They had a couple meetings and they have made some concessions and he understands they are doing a little extra landscaping than was required but they still have concerns about the two stories looking into their backyards. He would like to see that restricted to single stories. Along the south side of their property, he doesn't think it matters. They have a driveway there so he is not concerned about that, just the backyard.

VICE CHAIRMAN PRIDEMORE said to the applicant that given the comment that they just heard from the other adjacent property owner, would he be willing to put the restrictions as he has on the north and south in terms of the number of two stories along lots 23 through 26.

MR. MANGIAMELE said he thinks if they were faced with looking at additional one story height limitations in this community, they would probably need to request a continuance to go back and look at revising their elevations as they are now. To be honest with you, they are at a point now where they are not going with anymore self-imposed limitations. Granted, if homeowners come in and they buy single-story homes throughout the development, that is fine and dandy. They are not in a position to go with any self-imposed additional regulations on this property. They have heard Mr. Riggs comments and have worked with him in the past. He understands there is some sort of agreement and the previous owner. Unfortunately, they have not seen that agreement. That agreement was not codified, not adopted as far as any zoning. He does sympathize with him. Also, looking at the future and he doesn't want to speak for Mr. Riggs. He might want to live there the next 10, 15 or 20 years or he might sell out in 2 more years. He doesn't know. His guess is that as a long term future planning of this parcel, this is

not going to remain an agrarian rural residential parcel in the future. They have been working with him through the process.

VICE CHAIRMAN PRIDEMORE said so he doesn't want to put any more restrictions on those 4 lots that he just mentioned. He asked if he would rather have a continuance. Mr. Mangiamele replied he thinks they are at a point now if they were to look at anymore additional imposed regulations on this property, they would really want to go back and re-examine this. Now since they have additional one story limitations they might have to remove some of the previous agreed upon one story limitations. What he wants to remind the Commission up here is the reason why they were going for two-story is that these lots are relatively small when you look at the surrounding area in the community. The largest single-level home they can get on these lots is going to just around 3000 square feet give or take a couple hundred square feet. In order to get some square footage that is conducive and compatible with the adjacent neighborhood that is the primary reason they are going two-story is to get some area to these homes and be consistent with the 3500 or 4000 square foot homes that surround us on all sides. Otherwise, they are going back to the Amberwood Plan where their largest home is 2200 square feet. How is that compatible, he doesn't know. That is what was previously approved.

VICE CHAIRMAN PRIDEMORE said he is a bit surprised that those 4 lots would be the tipping point and he is not asking for a full restriction. So hypothetically, if he was to make a motion that included restricting those 4 lots to the silver star lots on the north and south of the property, he would rather go back and re-evaluate the entire property? Mr. Mangiamele wanted to clarify the 4 lots. **VICE CHAIRMAN PRIDEMORE** said no - Lots 23 through 26. They basically have a silver story. Mr. Mangiamele said not just limiting those to single story to have a silver star. **VICE CHAIRMAN PRIDEMORE** said it would get one of them out of the mix. Mr. Mangiamele said he was sorry he thought he wanted those to be single story as well. That is something they definitely could consider and definitely take a look at. He would have to discuss that with the current property owner and see if that is going to work or not. Obviously, that is within your prevue. **VICE CHAIRMAN PRIDEMORE** said he is trying to get the applicant's opinion of that possibility. It sound like obviously yes that he would need to go back to his client and verify that. Mr. Mangiamele asked if he could invite Taylor Morrison up and answer some of his questions.

COMMISSIONER RYAN said all subdivisions aren't created equal. He understands what everybody is saying about the one story home and TW Lewis and Valencia have very few two stories in there but what is there is are mostly internalized. The custom residential, you generally just don't have that many two story elements. These aren't large lots. These are kind of medium sized lots and it is important for buyers today to get as much square footage as they can on a lot. So if they limit this developer to one story on more lots, it may hurt his sales. He has attempted to provide a buffer on that south side, a nice buffer. From a Planning standpoint they put together a good plan. On the east side where they are abutting TW Lewis they are limited to one story because there is no buffer there so we all understand that. On the Southeast Area Plan there is an Ordinance that on corner lots you must go to one story. If they went to two stories on those corner lots and then brought some of those one stories out to the south side, he is o.k. with

it. He doesn't really want to dicker with it here tonight. He would just rather approve this and let it go forward. Let the applicant work it out with the owners between now and City Council review and approval. It is a nice development. He lives right next to this development. They have already graded and he thinks they are putting utilities in now. They are getting very close. This is a tough enough market to sell homes. They don't need to be continued. From a Planning standpoint they have done everything that they have asked them or Staff has asked them to do from a good Planning standpoint. He understands the custom residential on the south side but he think things can be worked out between the applicant and that south side and Mr. Riggs. Let them do it between now and City Council and let's move on.

CHAIRMAN VEITCH said the recommendation before them is essentially for the configuration that is shown on the exhibit that they are looking at with the possible further adjustment of putting the silver stars on Lots 23 through 26 or maybe just 25.

COMMISSIONER RYAN said he doesn't want it mandated here. He thinks it is really between the applicant and the neighbors. They are going to come and voice their opinion again at City Council level. The applicant has to put up with this all over again. So let them work it out between now and the City Council review. So he is o.k. with moving those end conditions single story, which is the Southeast Area Plan. All the end conditions are one story on the internal part of the site. From a public site, they aren't really going to see that so if the applicant wants to go two story there and move those one story out to the periphery that is fine with him. That is kind of the way he feels about this whole thing. He thinks the applicant has done a good plan and he doesn't think we should chastise him by forcing him to do more single story lots on a plan they have already provided a good landscape buffer to begin with.

CHAIRMAN VEITCH asked if Staff had any thoughts about the idea of transferring the end lot single story restriction as provided in the Area Plan to the perimeter.

KEVIN MAYO, PLANNING MANAGER said it is not necessarily the Southeast Chandler Area Plan but the regular Residential Development Standards that really has driven that home. On a case by case basis, they cautiously approach that type a decision. It was put in place to not have building mass come right out to a street. Historically, when you have front yard condition like Lots 23 through 26, you have the 20 foot building setback and for the most part its garages that are forward and other things - single story elements. Internally on the streets when you have a true corner lot that doesn't have a large landscape tract next to it, you have the potential to have a home 10 feet on that line if it is a 5 and 10 foot setback. Historically, they put the largest setback on the street side but you could have a 2-story structure 10 feet right off that street. They don't have that when homes back up to streets. Obviously they have a rear yard setback and when they front on the street you have a front yard setback. The intention of that requirement in the RDS was to pull that massing further away from the street and 10 feet off the right-of-way line. They have in the recent past on corner lots that made sense and had a large landscape tract they said o.k. this one could be a two story and we will use that single story over here. What it comes down to is really making something fit and make making something work for all sides. Just a blanket statement of are we o.k. removing the corner lots and taking that requirement out

of the RDS, probably not. On a case-by-case basis like this, he can see corner lots in this plan that have quite a large landscape tract next to it so it already has that setback built into it. So case-by-case cautiously yes, we entertain it.

ERIK SWANSON, CITY PLANNER, said it also important to note that as you look at the overhead, Lot 1 is asterisked as a darker star and then also Lot 32. Historically, we would not apply the single story restriction to lots of that type. As Kevin mentioned, there is that ability for that horse trading to occur. He thinks it is also important to note that even on an early application, La Valenciana, when they are dealing with that single story restriction on a corner lot, there is actually a provision in the Residential Development Standards that allows for a two-story component, it just can't exceed a percentage of the footprint of that building and that two-story component has to be internalized on this inside lot line. Those are a couple things that can be addressed - lots 1 and 32 possibly doing some horse trading with 23 and 26. Again, as Kevin mentioned that they are dealing with the front setbacks which are going to be landscaped. When they were looking at the housing product, there is just one home that has the two-story massing element right at that building setback and it equates to one bedroom. When they are looking at that, they aren't looking at a whole host of bedrooms where multiple people are going to be in there. They are really looking at one situation where one bedroom has that potential right at that 15 foot because it is a side entry garage. When they are dealing with the other two-story plans, there is a natural stepping back from the garage plane to that two-story element so you are going to get some natural separation more than just the property line is right here and here is my two-story home. In short, he would say as it is currently presented, there is enough of a buffer to separate that. However, if it is deemed that is not enough, he would say they probably have the ability in looking at the exhibit on the overhead to trade out lots 1 and 32 and put those single-story restrictions in 23 through 26 and let those potentially develop as a two story.

CHAIRMAN VEITCH said so that is one step they could take to give in effect to what we now decided to call horse trading with respect to the heights in houses.

VICE CHAIRMAN PRIDEMORE said he was just curious given that scenario, how best could they help Staff get to that point. Is that a blanket statement about Staff will work with the applicant to further address the one story, two-story issues on certain lots, designated lots or do they need to actually spell it out. Mr. Swanson replied it certainly makes it easier to say lot A and B will be single story but they have had the discussion and understand what is going on so they can find a way to allow flexibility in the layout. Mr. Mayo, Planning Manager, said it is always Staff preference that it is called out only because long term administration of it obviously subdivisions get started, they stop, they sell and it could be a series of months before they start to do these things. Every single subdivision in Chandler has little nuances about itself. It is an easier implementation of the intent of that PDP to have it called out which lots are which.

CHAIRMAN VEITCH said so they have identified lots 1 and 32 as possibilities for allowing two-story in exchange for one story elsewhere. Are there other lots that they would like to identify in that regard for example lot 27, lot 41, and lot 40?

PHILLIP CROSS WITH TAYLOR MORRISON, 9000 E. PIMA CENTER PARKWAY, SCOTTSDALE, stated just as a point of clarification that map is inaccurate. So before they go too far down the road with discussing lot 1 that is not currently a restricted lot. The actual exhibit that is in their pack is this one. As you go further in this discussion, you'll see that lot 1 is not a restricted lot. Additionally, the use to the direct west is more along a farm implement as opposed to house. That is why it was not considered in our plot plan as having to be a single story. However, the restrictions of no more than two, two-story homes along Chandler Heights are still in existence. That is why it should be and is in your packet a silver star as opposed to a black star. In regards to lots 23 through 26 and the consideration of further restricting those or potentially restricting those to single story or some form thereof, quite frankly he has a hard time of going that route because they have further restricted this community far beyond what they have under wrote it. They have made a tremendous amount of concessions that were never part of the earlier PAD. They have made a tremendous amount of concessions that were never part of the earlier PAD. There weren't restrictions on them when they purchased the property. They thought they were providing high quality diversity as far as the streetscape plan previously proposed. That is why they are here tonight to talk about the product that they proposed. They have worked very hard with residents and staff to come up with this plan but if you look at the number of restrictions that are not only part city ordinance but also what they have self-imposed. They are creating a subdivision that is very much lending what the consumers is going to be demanding. If the consumers demand all single story homes there will be no one happier than himself. If they require two-story homes to meet their needs as well, they want to give them that flexibility and they believe they have provided that with this plan. Again, they have worked very hard to try to do that. As Commissioner Ryan has pointed out, they are restricting themselves well beyond any ordinance or beyond any other subdivision in the neighborhood. They were previously approved when they bought the property. That is why Mario was as stringent in his presentation that may be a continuance is in order. He is not looking for a continuance whatsoever. He hopes that they look at the merits of this plan and understand the amount of sacrifice that they have done along the way with working with the neighbors to come up with a plan that makes sense, that self imposes and restricts a number of lots that they think is pretty reasonable over and above any of the ordinance or anything they purchased when they bought the property. With that he said he could answer any questions that they may have for him.

VICE CHAIRMAN PRIDEMORE said he would be curious then if he is in favor or on board with the restricting of the no second story balconies. Mr. Cross replied yes sir. He is o.k. with that and if they want to make that a stipulation, they have no problems with that.

COMMISSIONER DONALDSON said he had a question for Staff. One of the residents mentioned the aftermarket or once the home was purchased about balconies and/or extending balconies being built. What is available to them or the homebuilder to restrict that?

KEVIN MAYO, PLANNING MANAGER, stated it doesn't come in very often where someone has a two-story home with a patio cover that they can come in and want to cut out some doors off of the master bedroom and that make that a now usable balcony. He honestly can't think of one but in the event that it would happen and it was already a two-story home, he is not

really sure why they would prohibit that as long as architecturally it would be like it was a part of the home. If the intent is to prohibit those on this property, it really needs to be a condition with the PDP so that it gets memorialized that is the case so that it isn't added after the fact. No different than if somebody added a building addition that happens to fit within the building envelope. The PDP doesn't govern that. We would allow again working with the architectural integration, expansions of homes. The building envelope and setbacks start to dictate what can be done. If the agreement is that no balconies will ever be constructed, it really should be a stip. **CHAIRMAN VEITCH** asked the Commission what they thought in that regard.

VICE CHAIRMAN PRIDEMORE said from their point of view the applicant has been proactive enough to put it on the table he is willing to call him on it and make it stip.

CHAIRMAN VEITCH said so no balconies with original construction or after construction modifications. He agrees with Staff that for that to have any effect it has to be part of the PDP approval because it would get caught in the permit stage.

MR. CROSS asked for a point of clarification, if that were on lots 59 through 74 and Wood Drive.

CHAIRMAN VEITCH said the original representation was balconies would not be offered as original construction anywhere in the subdivision. Mr. Cross said he would be agreeable to that. **CHAIRMAN VEITCH** asked even concerning homeowner action afterward? Mr. Cross replied yes.

KEN GAYLORD said it is important to remember is that the original design in that area was 63 lots and now they are up to 83 lots. That is 20 more homes in that particular area. That is 20 less homes than they would have now and worrying about two stories. The builder in a sense kind of did this to himself by adding more homes. They want to make more money on the property that you own so you try to build more homes there. Again, he would just like to go back and say there are no two-stories in Mesquite Groves south of that property. There are no two stories in all the TW Lewis with the exception of a couple on the interior. He thinks they should remain consistent with the area and have all the interior homes, if they want to make them two stories that is fine but all the exterior homes should be single story to keep it consistent with all the rest of the community surrounding it.

CHAIRMAN VEITCH said if he is not mistaken, the subdivision and therefore the number of lots was in place and approved prior to the possession of the property by the current applicant. Mr. Cross said that is correct. **CHAIRMAN VEITCH** said so they didn't add to the total.

CHAIRMAN VEITCH called for a motion and perhaps an additional stipulation.

VICE CHAIRMAN PRIDEMORE commended the applicant for going above and beyond what we normally see for concessions that they have been making around the entire site. Kudos for that – he does appreciate that. Going back to some of his earlier comments, he was really

never looking to continue this item. He was just kind of latching onto the words the applicant had made at the time. He said he has no issues with the project that they have in front of them. He thinks the distance especially along the south is more than adequate for what they are looking at. Lots 23 through 26 were brought up earlier tonight; the fact that it is a front yard condition facing the property to the west. He is not looking to put any other restrictions there.

MOVED BY VICE CHAIRMAN PRIDEMORE, seconded by **COMMISSIONER CUNNINGHAM** to approve PDP13-0004 THE RESIDENCES AT BELMONTE with added stipulation no. 11 per the applicant's comments to restrict the construction of any second story balconies throughout the entire project.

CHAIRMAN VEITCH asked if that stipulation no. 11 would apply to original construction or afterwards? **VICE CHAIRMAN PRIDEMORE** replied correct.

GLENN BROCKMAN, ASSISTANT CITY ATTORNEY, stated he questions whether or not in the process of approving the housing product to be constructed in a PDP. This is not a rezoning that they can now restrict subsequent users of the property from remodeling their houses including adding a balcony. He can see being able to impose a restriction on what's constructed now as part of the Preliminary Development Plan. This would be the first time he has ever seen a restriction through a PDP process on a subsequent homeowner's effort to remodel their property.

COMMISSIONER RYAN said he thinks they can request it if they state it on the plat. The plat is recorded. It can be amended.

VICE CHAIRMAN PRIDEMORE said realistically he would still love to see the stipulation there for the initial construction. He is willing to take the Asst. City Attorney's comment to heart and only restrict it to the initial construction understanding the fact that down the road when any current homeowner in this subdivision wants to add such a structure they would have to come back through the city process and staff could catch it at that time. He said he doesn't think they need to necessarily burden it at this point. It is not something that just can pop up. There is a process that the homeowner would need to go through. He is willing to make the restriction for the initial construction.

CHAIRMAN VEITCH said so stipulation no. 11 just prohibits second story balconies as part of the housing product that would be approved. He said he would like to concur with the notion that there is a distinction that can be made between how the east side of the subdivision is treated as opposed to how the south side is treated because of the distance of separation. He was concerned there for a moment about the grade differential and less so if the differences are as small as has been represented by the applicant. He took a vote on the motion.

The motion carried unanimously 7-0.

CHAIRMAN VEITCH said this will be at City Council on September 12, 2013.

E. LUP13-0007 AMERICA'S TACO SHOP

Approved.

Request Liquor Use Permit approval to sell liquor as permitted under a Series 12 Restaurant License for on-premise consumption in a new restaurant and new outdoor patio and to have live music outdoors. The business is located at 3235 W. Ray Rd., # 1, southwest corner of Ray Rd. and the Loop 101.

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. The Use Permit is non-transferable to any other location.
3. 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.
4. 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.
5. The outdoor patio shall be maintained in a clean and orderly manner.
6. Live music within the outdoor patio area shall not occur past 8 p.m. and shall be limited to acoustic music without amplification.
7. The house speaker system shall not be utilized to amplify live music.
8. Music shall be controlled so as to not unreasonably disturb area residents and businesses and shall not exceed the ambient noise level as measured at the commercial property line.
9. No noise shall be emitted from the live music occurring outdoors that exceeds the general level of noise emitted by uses outside the premises of the business and further will not disturb adjacent businesses and residential areas.
10. The site shall be maintained in a clean and orderly manner.
11. The establishment shall provide a contact phone number of a responsible person (bar owner and/or manager) to interested neighbors to resolve noise complaints quickly and directly.

SUSAN FIALA, CITY PLANNER, stated this request is for approval of a Liquor Use Permit to sell and serve all types of liquor within a new restaurant and within an outdoor patio and as well as to have live music outdoors all under a Series 12 Restaurant License. The property is located at 3235 W. Ray Road in Suite 1 at the southwest corner of Ray Road and the Loop 101. Suite 1 is located in the northwest most tenants building of the development which is the Park at Santan and America's Taco Shop will be occupying a suite that was a former restaurant. They have added a new outdoor patio. It is important to note that this restaurant will be open from 9:00 a.m. to only 8:00 p.m., 7 days a week. There are approximately 87 seats with 32 seats outdoors. This request for live music outdoors would be played by groups of 1 up to maybe 3 people and that would probably be an acoustic guitar with a maximum of 1 amplifier. That would be only within the outdoor patio. This music would possible occur from 4 p.m. to 8 p.m. at the latest when the business closes and occur on Thursdays, Fridays, and Saturdays and select holidays throughout the year. It is also important to note that there are house speakers; a couple indoors and a couple outdoors that would always be there to broadcast music at a low level. These would not be used to be amplified. She said she will bring that up again when they get to the conditions placed on this Liquor Use Permit. There has been a neighborhood meeting of which there were several residents in attendance and as well this evening, there are residents from the

Darcy Ranch neighborhood which is located directly to the west of this development. The applicant is also here tonight to answer any questions and make his presentation. Working with the applicant and as well hearing the concerns of the adjacent neighborhood, it is important to note that when they hear live music especially outdoors that there are certain perceptions about that; this it is going to be loud and it is going to be rock music. No, the applicant for America's Taco Shop said this is just low background music that would occur during the happy hours of 4 to 7 p.m. and maybe until 8 p.m. If it reasonable and controlled and well managed by the owner, it can be compatible when you have residential next to it. That means that they have put several conditions on this application to address any future noise issues related to this music. With those it is important to note that item no. 7 of the conditions, during their Study Session it was brought to their attention that it was unclear and they would also like to rephrase that condition to:

The house speaker system shall not be utilized to amplify music.

As they can see, there are 11 conditions placed on this application. Some are typical and as well, they recommend approval for 1 year to evaluate the compatibility of having this music and as well the Series 12 Liquor License with this establishment and its compatibility with the adjacent neighborhood. Staff does recommend approval with the stipulations outlined in the attached memo. With that the applicant is here to answer any further questions and she is also there to answer any questions.

CHAIRMAN VEITCH asked if there were any questions for Staff.

VICE CHAIRMAN PRIDEMORE asked if she knew what the distance is between the patio and the closest neighbor. Ms. Fiala, City Planner said she has looked at that. As they can see, she has provided quite a few photos and she took the liberty to look at the as-builts and there is a right-of-way of 70 feet plus an additional 25 feet to the furthest west edge of that suite and then the patio is setback approximately another 20 feet. There is around a 100 - 110 feet between the patio area and the back wall of the nearest residential to the west across Federal Street.

MICHAEL MOORE, 1902 E. JADE PLACE, CHANDLER, OWNER & OPERATOR OF AMERICA'S TACO SHOP, stated that as they can see they had a vision on this patio to just have low sounding music, kind of a background music of acoustic music with just one guy and an acoustic guitar singing during their happy hour to be able to be spoken over where it is not loud music; where it is not imposing on the neighborhood, to enjoy your tacos, margaritas, and enjoy some background music. As far as the neighborhood goes, if he had heard that there was loud music or live music or any type of music going on being that close, he would be concerned as well. He is very sensitive to that as well and would not want to upset potential guests of his in that neighborhood. He would like to embrace that neighborhood and be a part of that community and provide a great place to eat, have margaritas and listen to some background music.

CHAIRMAN VEITCH asked if there were any questions of the applicant.

VICE CHAIRMAN PRIDEMORE said he had one question. Why not just have the live music indoors? Mr. Moore replied that it is Arizona and it is a great area to dine outside certain times of the year of course – not in the summertime. They are coming up on the fall and the spring and the winter when it would be great to enjoy outdoors. If the music was indoors, he is sure his guests would ask why they can't have some music outdoors. Being at a lower level and if it is not imposed on the neighborhood, he thinks it would be enjoyable and would be compatible.

CHAIRMAN VEITCH said he had 4 speaker cards.

JEFF GOBSTER, 730 N. FLORENCE, CHANDLER IN DARCY RANCH stated that first of all he is personally opposed to anything other than the amplified music. When they did the neighborhood meeting, the applicant indicated that would like to be able to have an acoustic guitar – somebody walking around playing low level music that wouldn't interfere with his customers being able to converse with one another. That seems extremely reasonable to him. Further on into the discussion it came up with the amplified and possibly bands on special occasions. In a little bit of research he did, normal conversation is about 60 decibels. Acoustic guitar played with the fingers is 80 decibels. At that level the guitar player is going to have work to keep the noise level down anyway. He doesn't understand the need for amplification. It seems to him that somebody playing acoustic guitar with their fingers should be able to play at a low enough level which the applicant indicates they would like to have. The other part is just the blanket approval of that amplified music. If this passes the way it is written, the applicant could have amplified bands out there every night even though it says on occasion. It is basically giving him permission to do it whenever they would like. He believes there is also a stipulation that allows for special event permits so if the applicant is looking to have amplified music once a year on Cinco de Mayo, it makes sense to him that they could get a Special Event Permit which would be specific to that day and then he would be still be able to have the acoustic guitar throughout the year. Again, he is happy that a restaurant is going in there. He understands they have excellent food and is not opposed at all to the acoustic guitar. It is the amplification that concerns him. According to the Maricopa County Assessor's website, their measuring tool, he did not want to get out there with a tape measure because Federal is a little bit of a crazy street sometimes. The measuring tools show that property line for the Santan Park where the patio sits to their nearest block wall is about 85 feet. The block walls along Federal are not quite 6 feet tall and there is no barrier between the patio and those homes to deaden the sound. If there is amplified music out there, those homes in the immediate area, if you want to go out and sit in your backyard and enjoy a beer and sit by the pool, you are going to be listening to whatever music the restaurant chooses to play. He thinks it is a livability issue. Again, his only concern is the amplified music.

COMMISSIONER DONALDSON asked Mr. Gobster if there was a way to get a map up. He would like to see where he lives in comparison to the property. Mr. Gobster showed where he lived.

COMMISSIONER WASTCHAK said in his letter he wants to have the decibel level left at speaking level which was indicated to him that he did research and 80 decibels would be typical

for a guitar. Is that what he was saying? Mr. Gobster said the research he was able to do shows that an acoustic guitar played with the fingers is 80 decibels. **COMMISSIONER WASTCHAK** said then his concern is that it is louder than a person talking which is what he had said. Mr. Gobster said he is saying that he believes that can be toned down so that the acoustic level is compatible with the voices but if you put an amplifier to it, it is going to take it above those levels. **COMMISSIONER WASTCHAK** asked if he happened to do any research on how loud car traffic is that is going on behind his street. Mr. Gobster said it is pretty loud. He doesn't know what the decibel level is but he does know that one of their neighbors that lives 8 or 9 houses down along Ray Road, when the traffic levels are lower, they can hear conversations from the outdoor patio at Lou's sitting in his backyard. To him, anything that is amplified is going to be a little less livable along those areas which to him could affect property values which is one of his biggest concerns.

DAVE ARMONTROUT, 3334 W. MEGAN STREET, CHANDLER stated he backs up to Ray Road and is about 8 houses from Federal Street. On a Friday and Saturday night, they are sitting out at Lou's on the patio. When they are drinking, they get a little boisterous and you can actually hear them at his house when the traffic is down on Ray, when it isn't flowing real heavy. He is really happy that they are opening a business, especially now days with the way things are. He isn't opposed to that at all. Actually, he is not opposed to the music at all. It is just more about it being played to an amplifier. If he can sit at his house and he can hear what is going on at Lou's later at night and the applicant is only talking to 8:00 p.m. which is not that bad at all, but it is just the fact that if you sit in your backyard, you will have to listen to the acoustic coming over the speakers. That would be the only thing that would be a problem.

COMMISSIONER WASTCHAK said the restriction where after a year if it is a problem, they can make a comment, come back and show up and make a comment and they can restrict it. Does that not help them to at least give them a chance to see if the music is a problem over time? With that restriction and they have done that before with other permits where after a year, they have come back and said they can hear and then further restrictions were put in place. Mr. Armontrout replied actually no. What he is asking really isn't that bad and 8:00 p.m. is not a bad time at all. He is only open to 8:00 p.m. so the band won't be playing up to 8:00 p.m. If he is not mistaken, you have to have time to clean up and all the other good stuff that goes with it. He is not opposed to that at all. He thinks their biggest thing living at Darcy Ranch and being so close, the road traffic and if you back up to a major street you know right off the bat the road traffic is bad. He thinks it is just the part of the amplification. He is not saying that it will be anything that loud that will travel that far. On a good Friday or Saturday night if you are sitting out in the backyard, 8 houses from the street and then across that street and into the patio, you can hear people out there laughing and carrying on and stuff. If you can hear that, you are definitely going to be able to hear them. Again, they are at the point where it is only at 8:00 p.m. where the other place it is happening at 10 or 11 at night with Lou's. Traffic has died down a little bit at that point so it carries a little bit further than normal. With that being said, he is not opposed to what he has and what he wants to do at all as long as he does stand by what he is saying and does keep it down.

VICE CHAIRMAN PRIDEMORE said just as a point of clarification with Staff, obviously they are looking at a 1 year stip. so that they know that in 1 year assuming this gets approved the way it is right now, the applicant would be have to come back before this Commission. However, hypothetical approval to that 1 year deadline, if there are issues that are occurring, it is not like they ignore those for a year. The City does have the opportunity and have the right to step in to fix the problem. Correct? Mr. Kevin Mayo, Planning Manager, said that is correct but he would not want to establish intent that it is very expeditious. It really comes down the end operator are they trying to be good neighbor? There will be instances and they have examples of this throughout the city. When an operator wants to be a good operator and good neighbor and know that there primary customers are going to be people who live right next to them, they try really hard. There will still be instances where somebody either strums to hard, things are too loud and you call them on it and they bring it right back down. In the event that it becomes a little bit out of control they reach out to them. If the applicant does not wish participate in some resolution, the have other avenues. Those other avenues do take time and they do become legal to get through those but they do have those avenues. In terms of this specific application, everything they are getting from the applicant obviously is they are going to be investing in significant amount of money into getting this thing going. The last thing they want to do is get off on the wrong foot. They are comfortable that they solely and truly a good operator. **VICE CHAIRMAN PRIDEMORE** said he just wanted to make sure that the neighbors understand that they are not stuck at a year. Mr. Mayo said correct. **VICE CHAIRMAN PRIDEMORE** stated there are mechanisms in place that if he is not true to his word that the city can step in. Again, they put the one year on it to make sure that they look at this no matter what happens in the interim and that after that one year time they will look at this. Again, if the applicant is not true to their word and there are issues throughout the year, there are mechanisms so they are not stuck for that one year. He wanted to make sure everybody out there understands.

DOUGLAS JONES, 3343W. MEGAN STREET, CHANDLER, stated they live across the street from each other; Dave and him. He is going to guess it is about a football field and a half away from the property. He doesn't have a problem with it so to speak. He and Mike actually talked Friday night at Lou's. There was something they discussed that somewhat concerns him. He has been involved with this office complex since the dirt was out there. Jack McKinney is a developer from Chicago that put it out there and he wanted a Class A office space. The City has always said they wanted a Class A office space. What he doesn't want to see and he's not saying that Mike wants this either, is doesn't want another applicant coming and saying they want live music. His thought is that Lou shows up, he wants live music and it goes to 11 or 12 p.m. at night. It is a Class A office so let's keep it that way. He doesn't have a problem it being acoustic as long as it is reasonable and not annoying to them. He can stand in his street at 8 or 10 at night and hear people talking on the patio. Can he hear exactly what their conversation is, no. I can't hear and he is going to say he lives a football field and a half away. He might be wrong on the distance but it is somewhere between a football field and a football field and a half. Otherwise, he is in supports of him doing what he wants to do. He thinks what he is doing being a sole proprietor is admirable and they should always work to help make it a success. Those are his thoughts.

BRIAN JOHNSON, DARCY RANCH, 3261 W. SHANNON PLACE, CHANDLER stated he lives basically on Shannon Place which backs up to Federal. He also doesn't have a problem with what is proposed as long as it is kept down to the 80 decibel levels or below and also with the Special Events Permit if that is what he is planning on doing for an occasional band. He can also hear from his house and backyard conversations from Lou's. Just wanted to say for the record that he doesn't really have a problem either as long as it is kept to what they were saying and with the Special Events Permit and also the 80 decibel level.

CHAIRMAN VEITCH invited the applicant back up for additional comments.

MR. MOORE said for the Special Events there are only 2 that he is looking at. One is obvious, Cinco de Mayo more towards the daytime. His door is always open to the community for open communication for the noise level and making that accommodation. He also said that amplification would only be during those special events.

VICE CHAIRMAN PRIDEMORE asked Mr. Moore if he would be willing to do a stipulation to that effect – that amplified music would only occur on the special events where you would need it. Mr. Moore replied said yes, like maybe their anniversary down the road and Cinco de Mayo. He really doesn't want a lot of amplified music on his patio. That is not his intention at all.

KEVIN MAYO, PLANNING MANAGER said through that Special Events Permit through what is before them tonight, if the applicant is agreeing that they would just desire to that type of amplification on the special events. This Use Permit would really just need to go forward with an acoustic only on the patio and use that as the on-going approval and then they can come in and seek the Special Event Permits when they have those. It would be just a cleaner way to proceed with this Use Permit.

CHAIRMAN VEITCH said he thinks that is correct. Could that be done through further modification or re-write of stipulation no. 7? Does that do it?

SUSAN FIALA, CITY PLANNER, said yes, they can modify condition no. 7 and ensure that the language is appropriate to have only acoustic music and that they would not have any amplification. They will modify condition 7. They will work on the language and ensure that is appropriate.

CHAIRMAN VEITCH said so it will say something like 'music on the patio shall be acoustic only and shall not be amplified'.

MR. MOORE asked if that is something that he would have to apply for like a Cinco de Mayo special event. **CHAIRMAN VEITCH** said yes, his understanding is that it would be a part of the Special Event application.

KEVIN MAYO, PLANNING MANAGER, said to the applicant it is not this process here. It is an Administrative Permit that is done through our neighborhood Resources side. He doesn't want to call it over the counter but it is a sole and separate permit process. They would be happy tomorrow to walk him through that and get him that application and show him what it is. It is kind of a case-by-case approval to do that outside of this public hearing body.

CHAIRMAN VEITCH said with that modification the Use Permit approval if recommended would restrict him to acoustic only. Amplification would only occur through that other process for your special events if approved through that process.

MR. MOORE asked if there is a number of Special Events allowed. Mr. Mayo said there is. There is a number and absolutely just escaped him. It is actually quite a few. If they wanted to do an anniversary, like a 1 year anniversary and Cinco de Mayo, that is entirely what the Special Events Permit is intended for. People that want to have it Friday and Saturday considered a Special Permit then it becomes an abuse of that permit. There is a number and he can't think of it off the top of his head.

COMMISSIONER DONALDSON said in regards to Mr. Gobster's letter and his comments associated with potential Special Events aside, acoustic music can be loud. If you bring in a mariachi band, brass or horns that don't have amplification they could really disturb the neighborhood and his position in the center is something that is a little precarious. He is not facing completely north to the commercial side, he is not facing east so he does have the ability to bleed into the neighborhood. He doesn't get the impression and he wanted to ask him because it doesn't look like he intends to have loud music whether it is acoustic or amplified. Mr. Moore said his intentions are for people to be able to enjoy their food and enjoy their backyards and not have the two conflict. **COMMISSIONER DONALDSON** said that is the impression that he got. Mr. Moore stated in his past he has done night clubs and things in the restaurant business and he certainly doesn't want those things. They bring a certain element that he is not comfortable with and he is sure they would agree. **COMMISSIONER DONALDSON** took a moment to commend him on his business venture.

CHAIRMAN VEITCH urged that they not lose sight of the fact that they have stipulation no. 8 which talks about not unreasonably disturbing residents or area businesses. Stipulation 8 limits to the ambient noise level as measured at the commercial property line. It is papered up in such a way that it shouldn't be audible across the street and if it is, there is Stipulation no. 11 pursuant to which people will call you. **MR. MOORE** said he will make that public knowledge as well.

CHAIRMAN VEITCH said in addition to the one year time stipulation they have 5 other stipulations that seek to control the music. He wasn't sure what else they could add.

COMMISSIONER CUNNINGHAM said she wanted to commend the couple and thanked them for investing in Chandler. She said their daughter is very well behaved and she has been there the whole evening. She is amazing.

CHAIRMAN VEITCH said they could give her a speaker card.

VICE CHAIRMAN PRIDEMORE thanked them for being so open and obviously their intent is admirable. Obviously, they have had the stipulations that they are seeing here have come out of some horror stories that they have learned and they try to learn from past experiences. They also from his point of view they are innocent until proven guilty and they want to give them the opportunity to shine. He thinks the stipulations they have here are good ones in that hopefully when they see them in a year, we hear only good things and actually nobody else shows up. That would be a great thing. He commends him on trying to be so helpful up front. They don't always see that. With that being said, he would turn to Staff in looking for some assistance on the wording of stip. 7.

SUSAN FIALA, CITY PLANNER, said in looking at conditions no. 6 and 7, condition no. 6 says 'live music within the outdoor patio area shall not occur passed 8 p.m. and shall be limited to acoustic music only'. That can be added and then for reference for condition no. 7, they can go back to the text since there are speakers outdoors that reads 'the house speaker system shall not be utilized to amplify music. **CHAIRMAN VEITCH** said in other words the house speaker system could provide recorded background if there is nothing else going on. **KEVIN MAYO, PLANNING MANAGER** said on that no. 7 he would prefer to add the word amplified live music. The house speaker system isn't intended to amplify background music. If they say amplified music, they can't play music through the house speaker system. It was really intended to not allow the house speaker system to amplify the live music. So it will be 'it shall not be utilized to amplify live music'. **CHAIRMAN VEITCH** said so they have modifications to stipulations 6 and 7.

MOVED BY VICE CHAIRMAN PRIDEMORE, seconded by **COMMISSIONER RYAN** to approve LUP13-0007 AMERICA'S TACO SHOP with the modifications to stipulations 6 and 7 as mentioned by Staff. The motion passed unanimously 7-0.

CHAIRMAN VEITCH said this is also going to the September 12, 2013 City Council meeting.

6. DIRECTOR'S REPORT

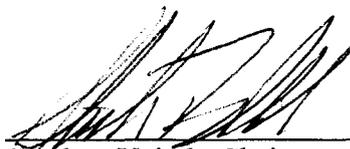
Mr. Kevin Mayo, Planning Manager, said there was nothing to report this evening.

7. CHAIRMAN'S ANNOUNCEMENTS

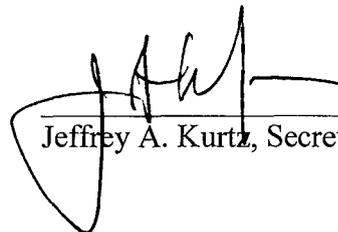
CHAIRMAN VEITCH said the next regular meeting is September 18, 2013 at 5:30 p.m. in the Council Chambers at the Chandler City Hall, 88 East Chicago Street, Chandler, Arizona.

8. ADJOURNMENT

The meeting was adjourned at 7:46 p.m.



Stephen Veitch, Chairman



Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, September 18, 2013 held in the City Council Chambers, 88 E. Chicago Street.

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

Chairman Stephen Veitch
Vice Chairman Matthew Pridemore
Commissioner Katy Cunningham
Commissioner Bill Donaldson
Commissioner Phil Ryan
Commissioner Devan Wastchak

Absent and excused:

Commissioner Andrew Baron

Also present:

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

4. APPROVAL OF MINUTES
MOVED BY VICE CHAIRMAN PRIDEMORE, seconded by COMMISSIONER WASTCHAK to approve the minutes of the August 21, 2013 Planning Commission Hearing. The motion passed unanimously 6-0 (Commissioner Baron was absent).
5. ACTION AGENDA ITEMS
CHAIRMAN VEITCH informed the audience that prior to the meeting Commission and Staff met in a Study Session to discuss each of the items on the agenda and the consent agenda will be approved by a single vote. After Staff reads the consent agenda into the record, the audience will have the opportunity to pull any of the items for discussion. Item C was pulled for action.

A. DVR13-0018/PPT13-0014 CANTABRIA

Approved.

Request rezoning from Agricultural (AG-1) to Planned Area Development (PAD) for single-family residential with Preliminary Development Plan (PDP) and Preliminary Plat (PPT) approval for subdivision layout and housing product for a 90-lot single-family residential subdivision located on 39 acres. The subject site is located at the northwest corner of Lindsay and Ocotillo roads.

Rezoning

1. Development shall be in substantial conformance with the Development Booklet, entitled "CANTABRIA" and kept on file in the City of Chandler Planning Division, in File No. DVR13-0018, modified by such conditions included at the time the Booklet was approved by the Chandler City Council and/or as thereafter amended, modified or supplemented by the Chandler City Council.
2. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or homeowners' association.
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. 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. 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.
9. Approval by the Director of Transportation & Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Transportation & Development for arterial street median landscaping.
10. 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.

11. 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 existing ranchette and animal privilege properties that may cause adverse noise, odors and other externalities. The "Public Subdivision Report", "Purchase Contracts", CC&R's, and the individual lot property deeds 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.
12. **The construction of Spur Road shall be deferred until a time that the Transportation and Development Director and City Engineer deems necessary. Until the improvement of Spur Road occurs, a drivable surface sufficient for emergency access and in conformance with City standards and requirements shall be provided.**

Preliminary Development Plan

1. Development shall be in substantial conformance with the Development Booklet, entitled "CANTABRIA", and kept on file in the City of Chandler Planning Division, in File No. DVR13-0018, except as modified by condition herein.
2. No more than two identical side-by-side roof slopes should be constructed along arterial or collector streets or public open space.
3. The same elevation shall not be built side-by-side or directly across the street from one another.
4. All homes built on corner lots within the residential subdivision shall be single-story or a combination of single and two-story elements consistent with the Residential Development Standards.

Preliminary Plat

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

B. DVR13-0034 NORTH OF THE NORTHWEST CORNER OF SUNRISE PLACE
AND GILBERT ROAD

Approved.

Request the establishment of initial City zoning of Agricultural (AG-1) on an approximate 0.25-acre site located north of the northwest corner of Sunrise Place and Gilbert Road.

Upon finding consistency with Arizona Revised Statutes, Planning Staff recommends approval of establishing the initial city zoning of AG-1 following the recent annexation of the subject site.

D. DVR13-0036 NORTH OF THE NORTHWEST CORNER OF COOPER AND CHANDLER HEIGHTS ROADS

Approved.

Request the establishment of initial City zoning of Agricultural (AG-1) on an approximate 2.5-acre site located north of the northwest corner of Cooper and Chandler Heights roads.

Upon finding consistency with Arizona Revised Statutes, Planning Staff recommends approval of establishing the initial city zoning of AG-1 following the recent annexation of the subject site.

E. DVR13-0037 NORTHEAST CORNER OF GILBERT AND QUEEN CREEK ROADS

Approved.

Request the establishment of initial City zoning of Agricultural (AG-1) on an approximate 4.8-acre site located at the northeast corner of Gilbert and Queen Creek roads.

Upon finding consistency with Arizona Revised Statutes, Planning Staff recommends approval of establishing the initial city zoning of AG-1 following the recent annexation of the subject site.

F. DVR13-0039/PDP13-0008 THE GROVE – PHASE 2

Approved.

Request Rezoning from Agricultural (AG-1) to Planned Area Development (PAD) for church related uses along with Preliminary Development Plan approval for a church campus on an approximate 20-acre site. The subject site is located north and east of the northeast corner of Gilbert and Queen Creek roads.

Rezoning

1. Development shall be in substantial conformance with the Development Booklet, entitled "THE GROVE" and kept on file in the City of Chandler Planning Division, in File No. DVR13-0039, 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 homeowners' association.
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, with the exception that the canal located on the site's east side may remain in its current location and may continue to convey water with review and approval by the City Engineer and the Transportation & Development Director. 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. 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.
9. Approval by the Director of Transportation & Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Transportation & Development for arterial street median landscaping.

Preliminary Development Plan

1. Development shall be in substantial conformance with the Development Booklet, entitled "THE GROVE", and kept on file in the City of Chandler Planning Division, in File No. DVR13-0039, except as modified by condition herein.
2. Landscaping shall be in compliance with current Commercial Design Standards.
3. The landscaping shall be maintained at a level consistent with or better than at the time of planting.
4. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or property owners' association.
5. Preliminary Development Plan 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 Preliminary Development Plan shall apply.

G. PDP13-0006 SANTAN BREWING COMPANY

Approved.

Request Preliminary Development Plan (PDP) approval amending the comprehensive sign package for Lot 2 of Warner Commerce Park on approximately 2.8 acres located at 495 E. Warner Road, east of the southeast corner of Warner Road and Delaware Street.

1. Development shall be in substantial conformance with the attached exhibits, entitled "SANTAN BREWING COMPANY" kept on file in the City of Chandler Planning Services Division, in File No. PDP13-0006, except as modified by condition herein
2. Compliance with the original stipulations adopted by the City Council as Ordinance 3653, case DVR04-0036 WARNER COMMERCE PARK, except as modified by condition herein.
3. Sign packages, including free-standing signs as well as wall-mounted signs, shall be designed in coordination with landscape plans, planting materials, storm water retention requirements, and utility pedestals, so as not to create problems with sign visibility or prompt the removal of required landscape materials.

H. LUP13-0009 MORENO'S MEXICAN GRILL

Approved.

Request Use Permit approval to sell liquor as permitted under a Series 12 Restaurant License for on-premise consumption in a new restaurant and new outdoor patio. The business is located at 2100 S. Gilbert Rd., #14, southwest corner of Germann and Gilbert roads.

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. The Use Permit is non-transferable to any other location.
3. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require a new Liquor Use Permit application and approval.
4. The site shall be maintained in a clean and orderly manner.
5. The patio shall be maintained in a clean and orderly manner.

I. LUP13-0010 DOLLAR GENERAL STORE

Approved.

Request Liquor Use Permit approval to sell beer and wine for off-premise consumption only under a Series 10 Beer & Wine Store License. The business is located at 400 W. Ray Rd., north of Ray Road and west of Arizona Avenue.

1. The Use Permit granted is for a Series 10 License only, and any change of license shall require reapplication and new Use Permit approval.
2. Expansion or modification beyond the approved exhibits (Floor Plan and Narrative) shall void the Use Permit and require a new Liquor Use Permit application and approval.
3. The Use Permit is non-transferable to any other location.
4. The site shall be maintained in a clean and orderly manner.
5. **Site landscaping shall be brought back up to the level consistent with or better than at time of planting.**

J. LUP13-0012 THE PERCH

Approved.

Request Liquor Use Permit approval to sell and serve liquor as permitted under a Series 6 Bar License for on-premise consumption indoors, within an outdoor courtyard, and have live music outdoors. The second request is for alcohol production and packaging as permitted under a Series 3 Domestic Microbrewery License in a new building addition. The business is located at 232 S. Wall St., north of Frye Rd. and west of Arizona Avenue.

1. The Use Permit granted is for a Series 6 license and a Series 3 license, and any change of license shall require reapplication and new Use Permit approval.
2. The Use Permit shall remain in effect for one (1) year from the 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. The Use Permit is non-transferable to any other location.

4. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require a new Liquor Use Permit application and approval.
5. The site shall be maintained in a clean and orderly manner.
6. Music and entertainment shall be controlled so as to not unreasonably disturb area residents and businesses and shall not exceed the ambient noise level as measured at the commercial property line.
7. No noise shall be emitted from the live music and entertainment occurring outdoors that exceeds the general level of noise emitted by uses outside the premises of the business and further will not disturb adjacent businesses and residential areas.
8. The establishment shall provide a contact phone number of a responsible person (bar owner and/or manager) to interested neighbors to resolve noise complaints quickly and directly.

K. LUP13-0013 CHAO PHRAYA

Approved.

Request Liquor Use Permit approval to sell liquor as permitted under a Series 12 Restaurant License for on-premise consumption in a new restaurant and new outdoor patio. The business is located at 1890 W. Germann Rd. #1, northeast corner of Germann and Dobson roads.

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. The Use Permit is non-transferable to any other location.
3. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require a new Liquor Use Permit application and approval.
4. The site shall be maintained in a clean and orderly manner.
5. The patio shall be maintained in a clean and orderly manner.

L. LUP13-0015 SANTAN BREWING COMPANY

Approved.

Request Liquor Use Permit approval for the operation of a Domestic Microbrewery under a Series 3 License, as well as the sale and serving of liquor as permitted under a Series 12 (Restaurant) license within a portion of an existing Microbrewery and restaurant (Suites 4-6) including an expansion to the outdoor patios for property located 8 S. San Marcos Place.

1. The Use Permit granted is for a Series 3 license and a Series 12 license only, and any change of license shall require reapplication and new Use Permit approval.
2. The Use Permit is non-transferable to any other location.
3. 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.
4. The area adjacent to the establishment shall be maintained in a clean and orderly manner.
5. The outdoor patios shall be maintained in a clean and orderly manner.

M. ZUP13-0004 VIEN MINH BUDDHIST TEMPLE

Approved.

Request approval of a time extension for a Use Permit to allow a place of worship in a single-family home zoned SF-8.5 (Single-Family District). The property is located at 285 North Comanche Drive, west of Alma School Road and north of Chandler Boulevard.

1. Expansion or modification beyond the approved exhibits (Site Plan/Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
2. In accordance with the Building Code's maximum occupancy load, there shall be no more than 49 persons on-site at any time.
3. Parking for gatherings such as worship services, celebrations/events, and the like shall not occur on-site. Parking shall occur off-site at an appropriate location in accordance with Zoning Code.
4. Worship services shall occur only within the single-family residence and cannot occur outside.
5. The outside area, the backyard, may be accessed during worship services pending compliance with all building codes, permits, and lot coverage requirements.
6. The site shall be maintained in a clean and orderly manner.

N. ZUP13-0010 FLORES RESIDENCE

Approved.

Request Use Permit approval for construction of a single-family residence to replace the existing structure proposed to be demolished. The property is zoned Multiple Family Residential (MF-2) and is located at 240 S. Dakota St., north of Frye Road and west of Arizona Avenue.

1. Development shall be in substantial conformance with the exhibits and representations.
2. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner.

MOVED BY COMMISSIONER RYAN, seconded COMMISSIONER CUNNINGHAM to approve the Consent Agenda as read into the record by Staff with the additional stipulations on Items A and I. The Consent Agenda passed unanimously 6-0 (Commissioner Baron was absent).

ACTION:

C. DVR13-0035 SOUTH OF THE SOUTHWEST CORNER OF MCQUEEN AND OCOTILLO ROADS

Approved.

Request the establishment of initial City zoning of Agricultural (AG-1) on six parcels totaling approximately 14.3 acres located south of the southwest corner of McQueen and Ocotillo roads.

Upon finding consistency with Arizona Revised Statutes, Planning Staff recommends approval of establishing the initial city zoning of AG-1 following the recent annexation of the subject parcels.

DAVID DE LA TORRE, PRINCIPAL PLANNER, stated this request involves 6 parcels that recently went to a City Council for an annexation request. Four of the parcels are located about ½ mile south of Ocotillo Road on the west side of McQueen and 2 of the parcels are located on the west side of McQueen and further north closer to Ocotillo Road. State law requires that after you annex a parcel that the parcels be zoned with a zoning district that is not denser and that is similar to what was zoned in the County. In this particular case, all parcels were zoned R-43 in the County which permits 1 dwelling unit per acre and as such to be consistent with the state law requirements, Staff is proposing a zoning of agriculture which also allows for 1 dwelling per acre on all 4 parcels. 2 parcels are being left out because they are essentially right-of-way along McQueen Road. So there are 4 parcels that are receiving the initial city zoning of AG-1. He said with that he would be happy to answer any questions.

CHAIRMAN VEITCH asked if there were any questions for David. There were none. He asked a member in the audience who wanted to speak to come up to the podium.

RANDY KEMENY, 1056 E. TONTO DRIVE, CHANDLER said he is right across the street from the parcel further south on McQueen. His concern is that he saw some plans. If you look at the houses in this general area, they are larger houses and many gated communities and 3-car garages. He has no concerns with the site closer to Ocotillo that they want to use for City use. For this particular site, frankly the houses are much smaller than the other houses in the area. Are they planning doing agriculture here instead of houses now? **CHAIRMAN VEITCH** said what is going on here is the initial zoning upon annexation of the land to the City. State law requires that they mirror what the County zoning was. The closest thing to that is the AG-1 district. Any rezoning for residential use or any subdivision to implement that residential use is not yet before them. Staff might have some information on when it will be or might be.

ERIK SWANSON, CITY PLANNER, stated there is an application in right now that is under review. It probably should be moving forward and before the Commission in a month to two months. It will be forthcoming. He will see big orange 4 x 8 signs out on the property that will have those dates on there as well. He will know when that happens. Mr. Kemeny replied great.

CHAIRMAN VEITCH asked if there was anything else. Mr. Kemeny replied that was it and they will keep watching for it.

KEVIN MAYO, PLANNING MANAGER asked Mr. Kemeny if he was part of the notice area and if he received a letter on this one. Mr. Kemeny said he did. Mr. Mayo said he if he did, then he will receive it for the zoning as well. So just keep an eye out for another one of those cards as well as the neighborhood meeting notice. Mr. Kemeny said he will and thanked Mr. Mayo.

CHAIRMAN VEITCH thanked the speaker for his time.

MOVED BY VICE CHAIRMAN PRIDEMORE, seconded by **COMMISSIONER RYAN** to approve DVR13-0035 South of the southwest corner of McQueen and Ocotillo Roads as recommended by Staff. The motion passed unanimously 6-0 (Commissioner Baron was absent).

6. DIRECTOR'S REPORT

Mr. Kevin Mayo, Planning Manager, said there was nothing to report this evening.

7. CHAIRMAN'S ANNOUNCEMENTS

CHAIRMAN VEITCH said the next regular meeting is October 2, 2013 at 5:30 p.m. in the Council Chambers at the Chandler City Hall, 88 East Chicago Street, Chandler, Arizona.

8. ADJOURNMENT

The meeting was adjourned at 5:46 p.m.



Stephen Veitch, Chairman



Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, October 2, 2013 held in the City Council Chambers, 88 E. Chicago Street.

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

Chairman Stephen Veitch
Vice Chairman Matthew Pridemore
Commissioner Andrew Baron
Commissioner Katy Cunningham
Commissioner Bill Donaldson
Commissioner Phil Ryan
Commissioner Devan Wastchak

Also present:

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

4. APPROVAL OF MINUTES
MOVED BY COMMISSIONER RYAN, seconded by COMMISSIONER CUNNINGHAM to approve the minutes of the September 18, 2013 Planning Commission Hearing. The motion passed 6-0 with 1 abstention (Commissioner Baron was not present at that meeting).
5. ACTION AGENDA ITEMS
CHAIRMAN VEITCH informed the audience that prior to the meeting Commission and Staff met in a Study Session to discuss each of the items on the agenda and the consent agenda will be approved by a single vote. After Staff reads the consent agenda into the record, the audience will have the opportunity to pull any of the items for discussion. There were no items pulled from action.

A. APL13-0002 AIRPARK AREA PLAN AMENDMENT/DVR13-0016 LA ESQUINA/PPT13-0020 LA ESQUINA

Approved.

Request an Area Plan amendment from Neighborhood Commercial to Low-Medium Density Residential. Rezoning from Agricultural District (AG-1) to Planned Area Development (PAD) for low-medium density residential with Preliminary Development Plan (PDP) for subdivision layout and housing products and Preliminary Plat (PPT) approval on approximately 15 acres located north and west of the northwest corner of Gilbert and Ocotillo roads.

Rezoning

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "LA ESQUINA", kept on file in the City of Chandler Planning Division, in File No. DVR13-0016, 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, 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. 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. 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. Approval by the Director of Transportation & Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Transportation & Development for arterial street median landscaping.
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. 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 following stipulations shall be the responsibilities of the subdivider/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 to achieve an interior noise level not to exceed 45 decibels (Ldn) from aircraft noise. A professional acoustical consultant, architect or engineer shall certify that the project's construction plans are 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.”

12. 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 heliport at the Chandler Municipal Airport that may cause adverse noise, odors, and other externalities. The “Public Subdivision Report”, “Purchase Contracts”, CC&R’s, and the individual lot property deeds shall include a disclosure statement outlining that the site is adjacent to or nearby a 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.
13. 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 existing ranchette and animal privilege properties that may cause adverse noise, odors and other externalities. The “Public Subdivision Report”, “Purchase Contracts”, CC&R’s, and the individual lot property deeds 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.

Preliminary Development Plan

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled “LA ESQUINA”, kept on file in the City of Chandler Planning Division, in File No. DVR13-0016, except as modified by condition herein.
2. The landscaping shall be maintained at a level consistent with or better than at the time of planting.
3. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or association.
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. The tot lot shall be a minimum of 20 total play stations.
6. All homes built on corner lots within the residential subdivision shall be single-story or a combination of one- and two-story with the one-story portion on the street side.
7. The same elevation shall not be built side-by-side or directly across the street from one another.

8. **No more than two, two-story homes shall be built side-by-side for more than 50% of the lots adjacent to an arterial street.**
9. No more than two identical side-by-side roof slopes should be constructed along the arterial streets of Gilbert and Ocotillo Roads.

Preliminary Plat

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

B. DVR12-0019 MCCLINTOCK VILLAGE

Approved to withdraw for the purpose of re-advertising.

Request action on the existing Planned Area Development (PAD) zoning to extend the conditional schedule for development, remove, or determine compliance with the three-year schedule for development or to cause the property to revert to the former PAD zoning for office and commercial retail. The existing PAD zoning is for a commercial retail development that includes a hotel on approximately 26.4 acres located at the northwest corner of Chandler Boulevard and McClintock Drive. **(REQUEST WITHDRAWAL FOR THE PURPOSE OF RE-ADVERTISING.)**

C. DVR13-0012/PPT13-0009 FIRE ROCK RANCH

Approved.

Request rezoning from Planned Area Development (PAD) for commercial and multi-family residential development to PAD for single-family residential, with Preliminary Development Plan and Preliminary Plat approval for subdivision layout and housing product on an approximate 23-acre site. The subject site is located at the northwest corner of Chandler Boulevard and Gilbert Road.

Rezoning

1. Development shall be in substantial conformance with the Development Booklet, entitled "FIRE ROCK RANCH", kept on file in the City of Chandler Planning Division, in File No. DVR13-0012, 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 homeowners' association.
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. 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. 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.
9. Approval by the Director of Transportation & Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Transportation & Development for arterial street median landscaping.
10. 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.

Preliminary Development Plan

1. Development shall be in substantial conformance with the Development Booklet, entitled "FIRE ROCK RANCH", kept on file in the City of Chandler Planning Division, in File No. DVR13-0012, except as modified by condition herein.
2. No more than two identical side-by-side roof slopes should be constructed along arterial or collector streets or public open space.
3. The same floor plan and elevation shall not be built side-by-side or directly across the street from one another.
4. All homes built on corner lots within the traditional lot portion of the residential subdivision shall be single-story.
5. For the traditional lots adjacent to an arterial street, two-story homes are limited to every third lot, with no more than two, two-story homes built side-by-side.
6. Landscaping shall be in compliance with current Commercial Design Standards.
7. Preliminary Development Plan 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 Preliminary Development Plan shall apply.

Preliminary Plat

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

D. ZUP13-0019 BRYCON CONSTRUCTION

Approved.

Request Use Permit approval to install a 1,640 gallon argon fuel storage tank in a screened exterior service area. The property is located at 6915 W. Frye Rd., east of the southeast corner of 56th St. and Frye Rd.

1. Development shall be in substantial conformance with narrative, site plan, and associated conditions of approval.
2. The tank shall be constructed to comply with all City of Chandler Building and Fire Codes.
3. Fuel containment shall be in accordance with all State and Federal laws.
4. A Spill Prevention Plan shall be kept on file with the Fire Marshall.

E. PPT13-0023 VILLA DEL LAGO

Approved.

Request Preliminary Plat approval for an 85-lot single-family residential subdivision located at the southeast corner of Dobson and Ocotillo Roads.

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

COMMISSIONER BARON stated he would be abstaining from voting on Item C and Item E as had provided consultant services on those projects.

MOVED BY VICE CHAIRMAN PRIDEMORE, seconded by **COMMISSIONER RYAN** to approve the Consent Agenda as read into the record by Staff with the changes as noted. The Consent Agenda passed 7-0 with Commissioner Baron's abstentions noted.

6. DIRECTOR'S REPORT

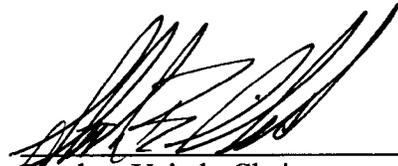
Mr. Kevin Mayo, Planning Manager, said there was nothing to report this evening.

7. CHAIRMAN'S ANNOUNCEMENTS

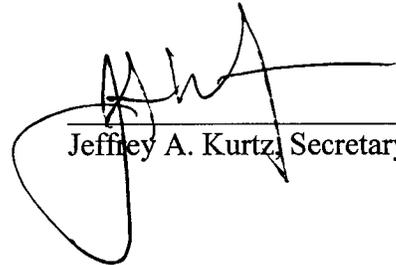
CHAIRMAN VEITCH said the next regular meeting is October 16, 2013 at 5:30 p.m. in the Council Chambers at the Chandler City Hall, 88 East Chicago Street, Chandler, Arizona.

8. ADJOURNMENT

The meeting was adjourned at 5:37 p.m.



Stephen Veitch, Chairman



Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, October 16, 2013 held in the City Council Chambers, 88 E. Chicago Street.

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

Chairman Stephen Veitch
Vice Chairman Matthew Pridemore
Commissioner Andrew Baron
Commissioner Katy Cunningham
Commissioner Phil Ryan
Commissioner Devan Wastchak

Absent and excused:

Commissioner Bill Donaldson

Also present:

Mr. Kevin Mayo, Planning Manager
Mr. Erik Swanson, City Planner
Ms. Susan Fiala, City Planner
Glenn Brockman, Assistant City Attorney
Ms. Joyce Radatz, Clerk

4. APPROVAL OF MINUTES
MOVED BY VICE CHAIRMAN PRIDEMORE, seconded by COMMISSIONER CUNNINGHAM to approve the minutes of the October 2, 2013 Planning Commission Hearing. The motion passed 6-0 (Commissioner Donaldson was absent).
5. ACTION AGENDA ITEMS
CHAIRMAN VEITCH informed the audience that prior to the meeting Commission and Staff met in a Study Session to discuss each of the items on the agenda and the consent agenda will be approved by a single vote. After Staff reads the consent agenda into the record, the audience will have the opportunity to pull any of the items for discussion. Item I was pulled for a full presentation.

A. DVR13-0009/PPT13-0010 SANTA MARIA VILLAGE

Approved.

Request Rezoning from Planned Area Development (PAD) for residential and commercial uses to PAD for single-family residential, with Preliminary Development Plan (PDP) approval and Preliminary Plat (PPT) approval for a 79-lot single-family residential subdivision and housing product on approximately 20 acres. The subject site is located north and east of the northeast corner of Chandler Boulevard and McQueen Road.

Rezoning

1. Development shall be in substantial conformance with the Development Booklet, entitled "SANTA MARIA VILLAGE", kept on file in the City of Chandler Planning Division, in File No. DVR13-0009, 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 homeowners' association.
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. 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. 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.
9. Approval by the Director of Transportation & Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Transportation & Development for arterial street median landscaping.
10. 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.

Preliminary Development Plan

1. Development shall be in substantial conformance with the Development Booklet, entitled "SANTA MARIA VILLAGE", kept on file in the City of Chandler Planning Division, in File No. DVR13-0009, except as modified by condition herein.
2. No more than two identical side-by-side roof slopes should be constructed along arterial or collector streets or public open space.
3. The same floor plan and elevation shall not be built side-by-side or directly across the street from one another.
4. For lots adjacent to an arterial street, two-story homes are limited to every third lot, with no more than two, two-story homes built side-by-side.

5. Two-story homes shall be prohibited on lots 1-18, 75-79, and all corner lots, with the exception of lot 58, which may be built with a two-story home.
6. Landscaping shall be in compliance with current Commercial Design Standards.
7. Preliminary Development Plan 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 Preliminary Development Plan shall apply.

Preliminary Plat

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

B. DVR13-0013 THE MET AT FASHION CENTER

Approved.

Request rezoning from Planned Area Development (PAD) Mixed Use with a Mid-Rise Overlay to PAD (Multi-Family Residential) on approximately 7 acres and PAD (Mixed Use with a Mid-Rise Overlay) on approximately 5 acres. In addition, request Preliminary Development Plan (PDP) approval for a multi-family residential development. The property is approximately 12 acres located at the southeast corner of Chandler Boulevard and Hearthstone Way.

Rezoning

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "THE MET AT FASHION CENTER", kept on file in the City of Chandler Planning Division, in File No. DVR13-0013, 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. 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. Right-of-way dedications to achieve full half-widths, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.
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. 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 Transportation & Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Transportation & Development for arterial street median landscaping.
9. The Mixed Use component shall be subject to approval of a separate Preliminary Development Plan application.
10. The Mid-Rise Overlay applies to the Mixed Use component only.

Preliminary Development Plan

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "THE MET AT FASHION CENTER", kept on file in the City of Chandler Planning Division, in File No. DVR13-0013, 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. The landscaping shall be maintained at a level consistent with or better than at the time of planting. The site shall be maintained in a clean and orderly manner.
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. All raceway signage shall be prohibited within the development.

C. DVR13-0029 WISE FAMILY HOME

Approved.

Request rezoning from Agricultural District (AG-1) to Planned Area Development (PAD) for construction of one single-family residence with Preliminary Development Plan (PDP) approval for site layout. The approximate 0.7-acre parcel is located at 4711 S. Tower Ave., north of Chandler Heights Rd. and west of Cooper Rd.

Rezoning

1. Development shall be in substantial conformance with the exhibits as represented by the applicant in case DVR13-0029 WISE FAMILY HOME, except as modified by conditions 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, per the standards of the Chandler Transportation Plan.
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. Permitted uses shall be those allowed in Article V. Section 35.501. Single-Family District (SF-33).
6. Building setbacks shall be a minimum of a 30 ft. front yard, an 8 ft. north side yard, a 12 ft. south side yard, and a 40 ft. rear yard.

Preliminary Development Plan

1. Development shall be in substantial conformance with the exhibits as represented by the applicant in case DVR13-0029 WISE FAMILY HOME, except as modified by conditions herein.
2. Approval by the Director of Transportation & Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls.
3. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or association.
4. The perimeter wall design shall be compatible with the adjacent Calabria perimeter walls.

D. DVR13-0040 QUEEN CREEK COMMERCE CENTER

Approved.

Request Rezoning from Planned Area Development for lumber storage, assembly, and distribution to PAD for office/warehouse/industrial type uses, with Preliminary Development Plan approval for site layout and building architecture on an approximate 35-acre site. The subject site is located at the southeast corner of Queen Creek Road and the Southern Pacific Railroad.

Rezoning

1. Development shall be in substantial conformance with the attached Development Booklet, entitled "QUEEN CREEK COMMERCE CENTER", kept on file in the City of Chandler Planning Services Division, in File No. DVR13-0040, except as modified by condition herein. The Development Booklet provides that building layout, architecture and design for future development of individual parcels, and related onsite site layout related to such future development of individual parcels, will be reviewed and approved administratively.
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. 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 or as otherwise approved in a development agreement.
5. Landscaping shall be in compliance with current Commercial Design Standards.
6. The landscaping shall be maintained at a level consistent with or better than at the time of planting.

7. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or property owners' association.
8. Approval by the Director of Transportation & Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Transportation & Development for arterial street median landscaping.
9. Right-of-way dedications to achieve full half-widths, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.

Preliminary Development Plan

1. Development shall be in substantial conformance with the attached Development Booklet, entitled "QUEEN CREEK COMMERCE CENTER", kept on file in the City of Chandler Planning Services Division, in File No. DVR13-0040, except as modified by condition herein. The Development Booklet provides that building layout, architecture and design for future development of individual parcels, and related onsite site layout related to such future development of individual parcels, will be reviewed and approved administratively.
2. Preliminary Development Plan 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 Preliminary Development Plan shall apply.
3. Signage shall require separate Preliminary Development Plan submittal and approval.

E. PDP13-0007 BELLMAN LLC

Approved.

Request Preliminary Development Plan (PDP) approval for the site layout and building design for a new light industrial building located on approximately 7 acres located south of Germann Road and west of Gilbert Road at the northwest corner of Stearman Drive and Douglas Drive.

Preliminary Development Plan

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "BELLMAN LLC", kept on file in the City of Chandler Planning Division, in File No. PDP13-0007, except as modified by condition herein.
2. Compliance with original conditions adopted by the City Council as Ordinance No. 3867 in case DVR06-0030, 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. The landscaping shall be maintained at a level consistent with or better than at the time of planting. The site shall be maintained in a clean and orderly manner.
5. Sign packages, including free-standing signs as well as wall-mounted signs, shall be designed in coordination with landscape plans, planting materials, storm water retention requirements, and utility pedestals, so as not to create problems with sign visibility or prompt the removal of required landscape materials.
6. Raceway signage shall be prohibited within the development.

F. PDP13-0013 LAYTON LAKES PARCEL 21

Approved.

Request Preliminary Development Plan (PDP) approval amending the subdivision layout and standard lot size on approximately 34 acres located south of the southwest corner of Layton Lakes Blvd. and Queen Creek Road.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "LAYTON LAKES PARCEL 21" kept on file in the City of Chandler Planning Services Division, in File No. PDP13-0013, except as modified by condition herein
2. Compliance with the original stipulations adopted by the City Council as Ordinance 3250, case DVR00-0025 LAYTON LAKES, except as modified by condition herein.
3. Compliance with the original stipulations adopted by the City Council as case PDP03-0038 LAYTON LAKES, except as modified by condition herein.
4. All homes built on corner lots within the residential subdivision shall be single-story.

G. PDP13-0015 WELLS FARGO CHANDLER CAMPUS PHASE II

Approved.

Request Preliminary Development Plan (PDP) approval for the site layout and building architecture for Phase II of the existing Wells Fargo Ocotillo Corporate Center campus on approximately 68 acres located at the northwest corner of Price and Queen Creek roads.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Wells Fargo Chandler Campus Expansion" kept on file in the City of Chandler Planning Services Division, in File No. PDP13-0015, except as modified by condition herein
2. Compliance with the original stipulations adopted by the City Council as Ordinance 3389, case DVR02-0021 WELLS FARGO OCOTILLO CORPORATE CAMPUS, except as modified by condition herein.
3. Compliance with the original stipulations adopted by City Council in case PDP02-0025 WELLS FARGO OCOTILLO CENTER, except as modified by condition herein.
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. Future median openings shall be located and designed in compliance with City adopted design standards (Technical Design Manual #4).
7. 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.
8. The landscaping shall be maintained at a level consistent with or better than at the time of planting.

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

H. ZUP13-0012 FREDRIK'S AUTO

Approved.

Request Use Permit approval for the operation of an automotive sales and associated service business within an existing converted home on property zoned Medium Density Residential (MF-1) and Regional Commercial District (C-3) located at 870 E. Chandler Boulevard.

1. Development shall be in substantial conformance with narrative, site plan, and associated conditions of approval.
2. The Use Permit shall remain in effect for three (3) years from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.
3. All site and building improvements shall be subject to separate permit application, review and approval.
4. All site improvement shall be consistent with the Commercial Design Standards.
5. Motor vehicle repair and maintenance shall occur within the garage only.
6. The landscaping shall be maintained at a level consistent with or better than at the time of planting.
7. The site shall be maintained in a clean and orderly manner.

MOVED BY VICE CHAIRMAN PRIDEMORE, seconded by COMMISSIONER WASTCHAK to approve the Consent Agenda as read into the record by Staff with the modifications as noted. The Consent Agenda passed 6-0 (Commissioner Donaldson was absent).

ACTION:

I. ZUP13-0018 SHOPPERS SUPPLY

Approved.

Request Use Permit approval to install a 500 gallon dispensing propane tank in an outdoor fenced storage area. The property is located at 2880 S. Alma School Rd., west of the northwest corner of Alma School and Queen Creek roads.

1. Development shall be in substantial conformance with the narrative, site plan, and associated conditions of approval.
2. The tank shall be constructed to comply with all City of Chandler Building and Fire Codes.
3. Fuel containment shall be in accordance with all State and Federal laws.

SUSAN FIALA, CITY PLANNER, stated this is a site that was a former Target and is now Shoppers Supply which came into business earlier this year. The request before them this evening is for a Use Permit approval to install a 500 gallon dispensing propane tank in an outdoor fenced storage area. Regardless of size of the fuel tank, whether it be dispensing bulk because it is a dispensing tank, it is required to have a Use Permit which provides the land use authority to install this propane tank on site. There is an existing screened outdoor storage yard. It is located on the southwest corner of the building and a couple of photos included in their packet illustrate the location of where that tank would be located. They will see there is an arched entryway into a gated area and as well the second photo on the bottom of that page shows the screened wall which is between 8 and 10 feet high and they can see there is even a higher structure which is towards the northwest of where that tank would be located. To give them a little background on Shoppers Supply, this store is the 2nd store in Arizona. There is one existing right now in Apache Junction. This type of store provides a wide variety of merchandise available to the public ranging from automotive to clothing footwear, lawn and garden, pet supplies and other farm implements as well. As stated, this bulk storage fuel tank that dispenses fuel is required to go through a Use Permit as well as important to mention that this is only giving the land use authority. It has to go through any building code requirements, building permits as well as approval through the fire department and any other applicable state and federal laws.

There was a neighborhood meeting held on September 25. No one other than the applicant attended the meeting. Subsequent to that through the public notification process there was an e-mail which was set on their dais this evening. It was from a concerned resident. There was one additional resident who came to our front customer counter at Transportation & Development and expressed their concerns. She believes they are present this evening and do wish to speak. The applicant as well is here this evening to answer any questions about the business' operation. Planning Staff does support this request for the 500 gallon dispensing propane tank and as stated, there are 3 conditions. As mentioned, they have to meet building and fire codes and State and Federal laws as well.

CHAIRMAN VEITCH asked if there were any questions of Staff. There were none. He asked if the applicant was present. He said he would have a chance to rebut anything else that was said later on. The applicant said he would do that. He asked if there was anybody in the audience that wished to speak regarding this item. He called a speaker up to the podium.

MIKE ANDERSON, 1231 W. CANARY WAY, said he is a renter of the property as well as the statutory agent and responsible party for the owners of the property who are not in state. He said he has a lot of material and he wants to try to present as little as possible to get the opportunity to have what he considers to be a due diligence and due process. He doesn't believe up to this point that it has. Basically, the first step was to have a neighborhood meeting and allegedly a notification was sent out by Shoppers Supply. He only knows because what the city states has occurred. They personally did not receive a notification. Last night he went down the street to approximately 11 or 12 residences. Just about all of them came to the door and very few of them actually knew about the process that is taking place here. Almost all of them were aware of what was going on with the tank from the standpoint that they had as owners received the

postcard that was notifying them about the hearing. As far as the neighborhood meeting notification that was supposed to be sent out by Shoppers Supply, out of the 10 or 11 homes there was only 1 party that was pretty sure they received something like that and they think it was in a Shoppers envelope and they definitely see how other people might think it is an advertisement and just throw it away. Other than that the other parties he spoke with, some of them said they were pretty sure they would have remembered something like that and they didn't receive it. Others said it was possible they got it and they just threw it out with the rest of the advertisements that they thought it was. The fact that nobody showed for the neighborhood meeting he doesn't think is representative of the actual views of the community. Again, the notifications that went out for the City in the capacity of the 600 foot notification zone and the ¼ mile, the City mailed out postcards which everybody seemed to have seen but only the owner of the property. There are a lot of renters and a lot of other people and the circumstances where he is at where he is not the actual owner but is the statutory agent. Normally if there is a legal notification that was being served upon somebody for that particular residence, those notifications should be coming through him. As for the muni-code, it basically spells out that as the owner of record, their mailing address is registered with the County. So that is what had occurred to his knowledge. Again, all of the other potentially affected residents that would be adversely affected as a result of this tank going in, they weren't notified so they don't even know that the whole thing is taking place and what kind of hazards are coming in next to their residences.

He has a 9 year old son who plays in the backyard. The thought of a 500 gallon propane tank exploding is a pretty horrific concept to him. There actually have been a lot of tank stories in the news recently. A lot of things associated with propane tanks. The agricultural field that is right adjacent to Shoppers Supply creates an even greater concern because that particular agricultural field has what he would say is thousands of cubic feet of dry hay structures that are stacked up and for the last couple years there have been at least 2 fires that took several days to fight and displaced people from their homes as a result of the smoke engulfing their properties from all of that hay. There is also a pool supply shop that is right adjacent to Shoppers Supply. Of course Shoppers Supply itself within their actual building, they sell all kinds of camping supplies and other things that might have flammable and combustible type properties. They also sell firearms which aren't prominently posted on the notifications and the firearms of course have a variety of concerns. Basically you have munitions if that building were to catch on fire and become a hazard. Now maybe you have incidental exposure of the hay, exposure of the pool supply shop next store and you have the exposure of the actual building itself. How many fires can the Chandler Fire Department fight concurrently? He knows they have their hands full with one of the hay fires. They use a lot of resources and they fight it for some time. It is all speculative but everything is all fine until something actually happens and of course, often in case they weren't expecting that. Nobody plans to really have the disaster. The key is to plan for contingencies and to try to make sure that those disasters are minimized.

In the case of Shoppers Supply they have other alternatives for their delivery of that propane to their customers. They can use the same type of propane in exchange service that is used by most of the other retailers; various gas stations, the grocery stores, and the hardware stores. They have an exchange service where customers bring in an empty tank and they take a charged tank out.

He is not sure how that process works. Yes it is a less lucrative endeavor for those businesses and in many cases that is their only option for them to do that because of either zoning issues or in most cases it is usually a regulation based upon the fact that they are renters. Shoppers Supply having purchased this property has a certain scope that they can kind of move out on those things. That is another issue too and Shoppers Supply having this ability to have that propane tank there and sell it in a bulk commercial quality, the competitive edge with other businesses within the Chandler area gives them a little bit of an unfair advantage in his opinion. There are a lot of aspects to it.

There is also on the Dobson family farm area, the agricultural field, in addition to the hay exposures there are also a bunch of plastic and pressured vessels of some type. They contain either pesticides or fertilizers or herbicides. He doesn't know what chemicals are there. Now you have hay on fire potentially, the chicken or egg thing and now potentially exposure to this tank at Shoppers Supply as a result of the hay. He actually heard from somebody that in this last fire in the agricultural field they have what they appears to be a 500 plus gallon propane tank there already. It is roughly about 400 feet from where this other propane tank is going to be going in. That creates another issue. Now you have 2 propane tanks that they are trying to manage in a relatively close confined area and if one or the other has some sort of a failure, this one is newer and this one has actually been here for quite a while, how do those things potentially play upon themselves as far as this blows up and takes out peoples windows, maybe ignite hay bales and potentially a projectile goes out and hits this other tank. What it really boils down to for us as residents is they were there first. Target was there previously and of course they are not a commercial propane dealer that has a dispensing propane tank. He does recognize the ability for Shoppers Supply as basically running with everyone else and that if they want to sell propane, they could have a 100 5-gallon propane tanks there in the front of their property and manage that in the same capacity that everyone does. When they are talking about putting in this major tank there, they are really creating a circumstance where they have created a rift to the surrounding community and properties potentially affecting property values and it is not something that is a requirement of their operation there and they are going to be making more money but as citizens they are incurring risks of their lives and their property and it is not a necessary risk.

Another topic is the power lines going in. He is sure they are all part of that. Power lines he thinks most people can agree in some capacity that they are a necessary public good that occurs as a result of power lines having residential service and reliability in the expansion and the building of businesses particularly within the private corridor. Both have to go somewhere. It is an issue as to who is going to get it. In this particular case, Shoppers Supply does not have to have this 500-gallon dispensing propane tank.

Mr. Anderson showed some pictures of public notices. He said he understands that there are certain stipulations within the code that spells out provisions as to how a notification is supposed to be provided. In this particular case the only notification that he as a resident who rents would have access to, would be from the owners stumbling across the notice in their mail in NY. On the main entrance of Shoppers Supply which usually by fire code the entrance is the one most people coming in and out of the property use and there are no notices visible on the main

entrance. On the secondary entrance which is west of the property there are a set of sliding doors and on those sliding doors there is actually what appears to be an 8-1/2 x 14 orange notice that is on the inside back panel of this six pane sliding door. So only patrons of Shoppers actually going in and giving them business would even have the opportunity to see that particular notice. Even so there is actually a lot of glare on the window. As you are going in, the automatic doors open up to your approach and actually sends another secondary pane in front of that particular notice and there is also a caution sticker on the door for safety that goes and further obscures the public hearing notice. Quite frankly he didn't know why anyone bothered putting it there. He was told yesterday by the Planning and Zoning people that there were no real notice requirements other than this neighborhood meeting and the postcard they sent out. When he looked through the process on the muni-code, there were all kinds of provisions in there for notifying such other persons. He showed 352601.1A. It says the Zoning Administrator shall provide written notice to such other persons as the Zoning Administrator reasonably determines to be other potentially affected citizens. He likes to believe that most people would say that anybody living across the field from a 500-gallon tank that is going in would say that they are reasonably affected citizens whether they actually own the property or not.

The commercial development that actually shares adjoining properties – they are all renters too. They are renting their facilities from a property management company who is technically the owner. If they receive the notification, the owners received it whether or not that information was relayed to the individual tenants of those properties remains to be seen. He believes you would find they were not aware. He actually contacted Wells Fargo today which is probably the nearest structure to that particular location of the proposed propane tank and the Branch Manager said he wasn't aware of the tank going in there. He was very concerned about it.

There are also provisions within the code that there be a 4 x 8 sign posted at the entrance to the property very similar to other hearings that have taken place regarding the use of a property given that there appears to be some discretion that is put in there for the Zoning Administrator to waive that requirement. He doesn't know in fact if that was officially waived. Why would somebody waive that requirement when it is yet another line of getting the notification out to the potentially affected people that are there?

The other notification was October 1st in the Arizona Republic paper. Again, why wasn't SanTan News or even the Chandler Republic or something that actually reaches a good portion of the homeowners and businesses that would be affected by this used? Putting it in the Arizona Republic while legal and acceptable, he thinks the SanTan News would have been a better opportunity for notification.

He showed a picture of people and property in harm's way not far from where the propane tank would be going in. If a tank were to detonate, either it would become a rocket or send out projectiles or whenever a tank blows up it does what is called a blevy. It is a boiling liquid expanding vapor explosion. You actually have 2 explosions. You have the tank itself rupturing, all of the gas gets vaporized and flashes over from its liquid state into a gaseous state and then it ignites into an ignition source and then will actually have a secondary explosion. It has a lot of path speed and can do a lot of damage. He showed a 2nd picture from a different angle, hay from

residential backyard perspective. He showed one from his own backyard which shows hay right next to Shoppers and their houses. He thinks a hay fire would be worse than fighting a warehouse fire. Again, they have the agricultural storage tank he talked about. They are plastic tanks and if they were exposed to fire, they would catch on fire. What they contain inside them he doesn't know. There is actually another metal tank here. What is in that he doesn't know; there is no visible label. He showed various shipping crates and pallets at the rear of the property which is very close to the propane sight. He showed a picture of construction waste and debris littering the back of the property. It is just a general care of how they are taking care of their facility and potential hazards associated with the tank. There is a lack of landscape maintenance. There is a tree limb hanging over the back of the lot. There is vegetation on the west side of Shoppers Supply near the propane tank site. The other propane tank he was telling them about on the adjoining property is right over here (he showed on a picture). He showed the rear of the property with an employee standing outside smoking with the door to the property open. He showed part of that garden area that is being referenced that is going to be the locked gate which all of the times that he has gone through there has actually been unlocked, as well as the other gate on the opposite side. It is just a thru way. There is forklift traffic operating the pallets and everything that is inside there. There is actually a big stack of pallets over here in the corner. A forklift has forks so he doesn't think there is any reasonable way that you would be able to put enough to fence around a tank to prevent it from a forklift accident which actually has happened along with backhoes and stuff along that line.

He doesn't know what they sell over there. He doesn't know what is in those bags, he doesn't know if there isn't certain fertilizers that would possible complicate any kind of fire over there. Or they could catch on fire and then expose the tanks to the fire. All of these are concerns that he thinks the City through its due diligence should have been asking these questions and clearly going through and looking at all of these things prior to the recommendations for approval of this site. Their appeared to be a lot of cheerleading for the business itself and there is not a lot of advocacy on the side of the citizens. In his opinion the Planning and Zoning Commission and the City Council should first and foremost represent its citizens and the business growth is the support of that citizen base and to grow with the community and have an amicable relationship between the two.

He showed an aerial photo of the Shoppers Supply. Also, that adjoining property is largely County land and there is a requirement that the City contact the Planning Commission of the adjoining municipalities. He questions as to whether Maricopa County can vouch for having been contacted and made aware of this.

Also, there is an MOU which is a Memorandum of Understanding for the fire approval and permit approval for the gas tank. The City of Chandler does not have one with the state. Many other municipalities do and in which case if anything comes up, it all goes through the State's Fire Marshall. Basically by the City of Chandler not having an MOU with the state, they themselves are taking all responsibility for vouching for the installation. The State Fire Marshall could really care less as to what is going on with this particular installation. In the Federal and State provisions meeting those codes, there is really very little and once the tank is in there is nobody inspecting them. They might have fire extinguishers that get inspected every so often

and have to be certified fire sprinkler systems. Once one of these tanks goes in there is nobody looking at them and making sure they are staying up to date and being maintained and taken care of. As part of Shoppers Supply permit, it would have been great to know more technical specifications; who the contractor was, what their qualifications were and what kind of actual training program were they going to have, what certification program are they using, is there a 3rd party that is coming out and signing off on them or is it all in-house.

As part of the neighborhood meeting that was supposed to have a taken place, the City code actually says that a Staff member will attend the neighborhood meeting. In his discussion with Susan she said nobody from Staff attended the meeting. There is no leniency given for that from the Zoning Administrator in that capacity. They don't have to conduct it but they are supposed to be there. That didn't occur. There were 2 fires that occurred on the property.

Also, it references conditions in the Staff recommendation and then there are really only 2 conditions that were there. It was mainly whether or not they meet building code, city codes and all that. He talked to Marc Walker, The City of Chandler Fire Marshall, as well as Robert Barger, the State Fire Marshall. It doesn't sound like there is a really a whole lot that goes into it. It is mainly going to rest upon the building department. They base it upon the total load of combustible and flammables or whatever is on that particular property. Whether they have a 100 5-gallon tank or whether they have 1 500-gallon tank and whether something is a legal use and whether or not something is an appropriate use given the surrounding condition of that environment, they should side on the safety of the community. In the Planned Area Development and Ordinances that he read, all of this stuff that is taking place is all designed to be around the safety to the homeowners and to the development of the area to make sure that it is a comfortable and amicable arrangement between all parties. He would just ask that everybody consider as to whether or not they would want such a highly explosive device in their back yard and if they would feel comfortable with having that be done and he said he can't help but feel given the big picture of the homeowner that pocketbooks are being put in front of safety and risk concerns by residents. The City stands to make a lot of money off of the revenues from this tank going in as them being a dealer. Brooksie's Supplies in the County; that is their bread and butter. Having Shoppers Supply go in and put this tank in is probably going to drive them under because they are going to lose a lot of their business. They don't have a lot of other offerings to compete with that and if that happens, it is going to drive more money over into the City of Chandler for tax purposes. Of course, Shoppers Supply stands to bring in extra cash as well. He just feels as a resident of the City of Chandler and somebody that is being right next to that property, please take into consideration whether you guys would want something like that in the back of your property.

He read various articles and news accounts he pulled off of the internet about some propane explosions across the country.

COMMISSIONER RYAN stated he really didn't want this to go on much longer either. He asked Staff that either they have a report from the fire department that this is safe or it is not safe. They are not there to judge a facility that is going to be safe or not safe for this residential area. Either they have a report that says it is safe or they don't and they table this item. This is kind of

crazy. They are up there listening to all this stuff from the residential people and he doesn't know how to reply to this. He asked Kevin Mayo, the Planning Manager about it.

KEVIN MAYO, PLANNING MANAGER, said what he is asking for is putting the cart before the horse. It would be like requiring that your building plans are approved for your home before he is going to zone their property. These things go through the building permit process for the safety issues. What is before them tonight is strictly the land use issue of 'can you store the propane and dispense it from this facility' and does that represent a land use conflict. What the resident is bringing up is that safety things become that land use conflict of which is not part of this discussion. It is no different than saying 'I don't want a home built here' because it might fall down. There is a separate review, a separate body that approves those things. In this case it is the Fire Marshall and the building code that says whether or not these things are safe and they would not approve it if it was not.

COMMISSIONER RYAN said they have had uses going to industrial developments and they would have the Fire Marshall check the list of combustible material that was going to be stored inside so that it was compatible with adjacent uses. It is no different than this. If this is something that isn't compatible to the residential areas, we should vote on it in accordance with that. He doesn't even know if this has been before the Fire Marshall.

KEVIN MAYO said this is not something that goes before the Fire Marshall for a dispensing tank to say is this compatible thing or is this not a compatible thing? They exist throughout Chandler at gas stations where you have residences that are very close to other things. Pool supply companies such as Leslie Pools and those types of facilities have hazardous materials. If they are stored in an appropriate manner as dictated by the Fire Code and by the Building Code, they can be compatible. What is before them this evening is simply is it appropriate, is it a compatible land use to have this thing. If it is built to code, the Fire Marshall has said that it is safe. Not on this specific site, but on every other one where a tank exists today. Simply, it is a question of 'is this an appropriate land use before this piece', ancillary and secondary to the retail that are occurring on this property insuring that it is a safe installment is up to the building code and Fire Marshall. No different than they don't have a gas station pre-cleared from a safety code prior to bringing it to Commission and Council for approval of the land use. The land use is approved and then it gets built and inspected per building code.

RUTH BRAZELTON, 1610 E. FLINT STREET, said in listening to him on the safety matter and the amount of the tank and those homes are already there. You have your home insurance on those homes and now they are going to bring in something else that could possibly be a hazard where if something happens and you're not covered and God forbid if some lives were taken, she is with him. Somebody should find out first if it is safe to have it there before they go through this information. He gave some good information. She said she doesn't live in his area but she has felt the pain of the people who are living there. She thinks it is a safety hazard and someone needs to check it before they bring it in. They have a responsibility to the residents of Chandler, Arizona. They are paying taxes on these houses. They moved here from other states to buy these houses and the taxes are being paid. She said she can see what our taxes are being put to use. She just got hers in the mail and they want them to vote to forget what they already said

but yet increase it for the schools. The homeowners are the ones who are going to be bearing the brunt of it. It is safety for the residents and they need to look after the residents. They are voted in or appointed in but it is to look out for the residents of Chandler.

ROBERT LADD, 1241 W. CANARY WAY is right behind the field. He has lived there since 1995. When they built the house, they signed an agreement with Shea Homes and the farm that they would be subjected to agricultural smells and that was fine. He would rather have that than the traffic behind them. In the period of time they have lived there, they have had 2 major fires. The one last year went on for 4 or 5 days. They were going to have to leave their house. You couldn't have your air on it because it was thick black smoke. The hay was burning, they were pushing it down. Previous to that several years before that there was another fire and the same thing happened. The hay started on fire again. That is explosive. He doesn't know if they have seen it when it goes up. Several of them were sitting outside with their hoses trying to hose their roofs down to keep them from catching fire. At the time, the fireman came up to the door and he told them they should probably be getting ready to think about leaving because they were concerned about the small trailer that was at the far end of the field that had a propane tank. They proceeded to continue to pour water to cool that tank down because they were afraid it was going to blow. He was worried about his wife and children so he said they would leave and come back tomorrow. He remembered that being a bad feeling. That was a small tank but big enough to be a concern because they said if that tank went, it would take us out and probably the whole block behind them. Now they are talking about putting a bomb in their back yard. He is also worried about the smell from that. Propane stinks and if you are downwind you're going to smell that and there goes their home values. They are just starting to come back up again after getting beat up the last few years. If he goes to sell his house in a few years or down the road, that is going to be an issue. He just has a bad feeling. The best thing they all can do is take a look at that place. Look at the hay and the equipment out there. Look where this thing is going. Do you want it in your yard? He doesn't want it in his. They have been in there since 1995 and he doesn't plan on going anywhere. He likes Chandler and wants to stay there but he doesn't want to be threatened with an explosion in the middle of the night either. There have been fires there and it is not a safe area. The farm is there and they kind of go along with it because they know they have to do business and they are moving hay in and out. He wasn't in town when this meeting came up on the 25th or he would have been there. He doesn't know why they have that much of a tank there to sell. They need to go look at that area before they make any type of decision. He could guarantee they wouldn't want you or your family around something that could go up like that any time. It has happened before, it could happen again. There is hay out there right now. It is probably as tall as these columns up here. The only option the fire department has when they come out, is let it burn.

VICE CHAIRMAN PRIDEMORE said to try to get an understanding of the neighborhood he asked if there was natural gas in their neighborhood. Mr. Ladd replied yes. **VICE CHAIRMAN PRIDEMORE** asked if it bothered him. Mr. Ladd replied the gas company comes around and they have to change the meter a few times. They upgrade and inspect it. It bothers him but he has gas – what can he say about it. It was in there when they bought the subdivision. That is an option he had. He doesn't have an option. **VICE CHAIRMAN PRIDEMORE** asked if he had a gas grill. Mr. Ladd said he doesn't. Mr. Ladd said everybody has gas in the neighborhood.

Gas explosions happen but why tempt fate. That is what he is looking at. Gas is there and that is something they live with. The gas company had to come out and change the meters but they are on top of it. What if this thing goes up in the middle of the night? Who is going to be there? **VICE CHAIRMAN PRIDEMORE** said he thinks a lot of the issues are with the agricultural land between them and the property they are talking about. Mr. Ladd said it is a tinderbox. If it was a lake back there, it would be a different thing. He has seen it happen twice since he has been there since 1995. Basically they just go up and it explodes and the fire department comes out and they can't put it out. They put water on it and it just keeps spreading somewhere else. He does have gas though and he gets his point.

MS. BRAZELTON said with SRP and APS some have gas and electric. She has electric but that still doesn't cut it about them putting more gas out there that they can't control. The gas company controls theirs and Chandler would not have said it's o.k. to build those homes with gas. Don't put that on him. They have regs. for building the homes too. She knows for a fact because she has friends who have a gas bill and an electric bill and Chandler has to say to do that. Some have electric only and some have gas only. Chandler had to o.k. those homebuilders to say it's o.k. to do that and it was safe. So quit turning it around. Would you want it in your backyard? That is all she is saying. They are the Zoning Council for Chandler. Look out for your residents. That is all she is asking. Just look out for them and forget the money that is going to come in taxes or whatever the money they are going to get with that company coming in with those gas tanks. That's all she is asking; that's all they are asking. They are here because they are the Zoning Commission and they come to you to take care of them. You are the experts in this, they are not. They are just telling you and asking you to do the right thing for your residents of Chandler because without them they won't be growing anymore. Do the right thing and don't try to put someone on the spot for a company because it is the residents here who build Chandler. They will be here one day and if it isn't working, they are going to move out and leave all that stuff for them to tear down anyway.

CHAIRMAN VEITCH called the applicant up to the podium.

JON HERGES, GENERAL MANAGER OF SHOPPERS SUPPLY, 2880 S. ALMA SCHOOL ROAD, said they are trying to put in a 500-gallon dispensing tank for the convenience of their customers. They like to think of themselves as a one stop shop. They do sell barbecues, propane tanks, and backyard heaters. If a customer can come in and buy that barbeque and fill up his propane tank, they like to accommodate them that way. He has been told that propane is safer than gasoline. It has a higher ignition point than gasoline-twice the ignition point. There are accidents that happen with gasoline, propane, and electricity. You can't deny that. All they are trying to do is make it convenient for their customers to come into the store. Between the outlays on the propane tank, safety features, the fire department comes in and gives them certain standards from the building code and tells us where to put it.

The safety distance for a propane tank of 3000 gallons is 50 feet. When there is fire around the propane tank and it gets hot, there may be an incident. On a dispensing tank there is a heat valve that will open it up and let it out before it explodes. He realizes the safety concerns of the neighbors but it seems like they have more issues with the farm land or the Dobson Ranch right

next to it. They are 1000 feet away. When you install a propane tank, that has to be a perimeter from a building and that is set by the building codes here in the city, they have a 1000-gallon tank in their Apache Junction store. It has been operating for 2-1/2 years. They have sold propane out of their 5 stores up in Iowa for over 30 years. There are 100,000 propane tanks in the United States and there has not been an incident in the last 10 years.

He really commends these people for their concerns and safety and the safety of their neighbors. Like the Vice Chairman said there is more danger to the propane tank on your barbecue from your neighbor's house than there will be from Shoppers Supply at their store. He didn't know it was going to cause this much of an issue but as far as the letters they sent out, they sent out 182 letters for the residents that were within 1350 feet. They went through every channel that was asked of them. The propane tank in Apache Junction, they went to the Fire Marshall and the Building Inspector and they did not have to get a permit from the city. Not that it matters but it is just a question of the safety comes from the Fire Marshall and also they are dealing with AmeriGas, which is a large propane tank supplier. They will put the tank in to their specifications. They come out and they certify a few individuals at the store to dispense that propane. They have safety procedures written. They have classes that are given to them by AmeriGas for dispensing the propane.

Having a propane tank is safer than filling a gas tank in your car. He has been told that by a gentleman named Charles Ory who is the President of Family Propane, who installed their propane tank in AJ.

VICE CHAIRMAN PRIDEMORE asked if could offer some insight on operations one of which is that they saw some photos earlier this evening of a gate into that enclosure that was open. Will you talk about how the enclosure will be secured? Secondly, there was one of an employee smoking. If this would go forward and it would be installed, what would their policy be for employees smoking in the general vicinity? Mr. Herges replied they have a smoking policy outside located on the north side of the building. It is on the other side of the building where the tank is going to be, approximately given the size of the building, a good 500 feet on the other side of the building. The southwest corner of the building outside is where the smoking is. The gates are locked nightly. They have an outside yard area where they have wire fencing, stock tanks and water tanks, and those gates are open during business hours. The dispensing tank has a lock on it as far as being able to turn on and off. The pump to fill out a tank is locked after each time they fill a tank. Those gates are locked at 7:00 p.m. every night when they close. They are 18 feet high gates; galvanized steel gates. The enclosure is over on one side probably 12 feet high and then there is a building on the other side – very secure.

COMMISSIONER CUNNINGHAM said AmeriGas is the same company that operates the exchange tanks. Is he familiar with that program? Mr. Herges said he is familiar with the exchange tanks, yes. **COMMISSIONER CUNNINGHAM** said is she correct that AmeriGas has several exchange tanks? In other words the exchange tanks that the gentleman was comfortable with, if they have 300 of them sitting outside of the store right by the front door, she is wondering just how safe they are if someone dropped a cigarette near them. Would they not have the same safety on those small tanks as in fact the big ones have, only more of a safety on

them? She knows she has taken a tank to be refilled and she knows how cautious the people who fill it are. Mr. Herges replied that he would rather have an enclosed tank. It is almost a self-serve exchange tank where you put the empty one in there and take the full one out. He would feel safer with an enclosed tank where they fill it up themselves. **COMMISSIONER CUNNINGHAM** asked how close to this tank is the bank that the gentleman is concerned about – in feet? Mr. Herges replied a guestimate would be maybe a 100 feet. **COMMISSIONER CUNNINGHAM** said she is very familiar with propane tanks in rural areas. She has lived in Sierra Vista, Arizona and eastern Sierra Vista which is all acre and a quarter lots and every house has its own propane tank which are usually about 800 to 1200 gallon tanks. They sit approximately 75 feet from the back door of the home at the very closest. There is no history of explosions but she also knows that having spoken with the gentleman who fills those tanks on a regular basis that they are inspected. It is not that they are not inspected and in fact the Fire Marshall in Cochise County and she is not sure if that is the correct term for him but there is a safety inspection through the Sheriff's department. Here she talked to a gentleman and she thinks it was at Brooksie's who said they also are subject to inspection and in fact they get a sticker when they are inspected. Is that correct? Mr. Herges said yes they get a tag. **COMMISSIONER CUNNINGHAM** asked so he would be subject to those same safety inspections? Mr. Herges replied yes. **COMMISSIONER CUNNINGHAM** asked if he had any idea how frequently those inspections occur. Mr. Herges said he thinks it is a yearly inspection. **COMMISSIONER CUNNINGHAM** said the other gentleman is correct, propane stinks. When it is leaking you know it. It is not hard to tell. Obviously if you could smell it, you are going to check on it. Propane can leak out of a tank and no explosion occurs because it is leaking so slowly assuming no one is smoking a cigarette around it.

CHAIRMAN VEITCH asked if there were any other questions for the applicant. There were none. He said he was going to close the public portion of the hearing and open it up for discussion on the Commission dais remembering that their function is to make a recommendation to the City Council concerning the appropriateness of this Use Permit from a land use perspective. That is why it says Zoning Use Permit as they all know. He asked if there were any comments. He asked if there was a motion.

VICE CHAIRMAN PRIDEMORE stated that having heard the comments tonight it sounds like most of the issues are with the property directly north, the agricultural property. Obviously, if something would happen there again and there is a history of that, a fire or anything else like that is not a good thing. They are looking at the Shoppers Supply and what they are looking to do and he thinks they have to judge them on that portion of it. Obviously with the past history of the other property, they do have some issues but unfortunately that is out of their prevue and out of our city. He thinks it is appropriate for a tank in this case. He finds it hard to believe that Shoppers Supply is looking to blow up their potential customers. He thinks they are going to take every step they can with the installation and then the maintenance. Obviously, there are some regular inspections that are going to take place from several different entities so he doesn't see that this is any different from other areas in the city. With that being said, he made a motion.

MOVED BY VICE CHAIRMAN PRIDEMORE, seconded by **COMMISSIONER CUNNINGHAM** to recommend approval of Use Permit ZUP13-0018 SHOPPERS SUPPLY to

City Council. The item passed 5-1 (Commissioner Ryan opposed). Commissioner Donaldson was absent.

VICE CHAIRMAN PRIDEMORE asked Staff when this item goes to City Council. Staff said it will go to Council November 7, 2013. **CHAIRMAN VEITCH** said what the Commission has just done is forward a recommendation to the City Council for the approval of the Zoning Use Permit. City Council will receive that recommendation at its meeting on November 7, 2013.

6. DIRECTOR'S REPORT

Mr. Kevin Mayo, Planning Manager, said there was nothing to report this evening.

7. CHAIRMAN'S ANNOUNCEMENTS

CHAIRMAN VEITCH said the next regular meeting is November 6, 2013 at 5:30 p.m. in the Council Chambers at the Chandler City Hall, 88 East Chicago Street, Chandler, Arizona.

8. ADJOURNMENT

The meeting was adjourned at 7:07 p.m.



Stephen Veitch, Chairman



Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, November 6, 2013 held in the City Council Chambers, 88 E. Chicago Street.

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

Chairman Stephen Veitch
Vice Chairman Matthew Pridemore
Commissioner Andrew Baron
Commissioner Katy Cunningham
Commissioner Bill Donaldson
Commissioner Devan Wastchak

Absent and excused:

Commissioner Phil Ryan

Also present:

Mr. Kevin Mayo, Planning Manager
Mr. David de la Torre, Principal Planner
Mr. Erik Swanson, City Planner
Ms. Susan Fiala, City Planner
Glenn Brockman, Assistant City Attorney
Ms. Joyce Radatz, Clerk

4. APPROVAL OF MINUTES
MOVED BY VICE CHAIRMAN PRIDEMORE, seconded by COMMISSIONER BARON to approve the minutes of the October 16, 2013 Planning Commission hearing. The motion passed 5-0 with 1 abstention (Commissioner Donaldson did not attend that meeting). Commissioner Ryan was absent at this meeting.
5. ACTION AGENDA ITEMS
CHAIRMAN VEITCH informed the audience that prior to the meeting Commission and Staff met in a Study Session to discuss each of the items on the agenda and the consent agenda will be approved by a single vote. After Staff reads the consent agenda into the record, the audience will have the opportunity to pull any of the items for discussion. Item A was an action item.

B. DVR13-0027 VALLEY CHRISTIAN HIGH SCHOOL

Approved.

Request action on the existing Planned Area Development (PAD) zoning to extend the conditional schedule for development, remove, or determine compliance with the three year schedule for development or to cause the property to revert to the former Agricultural District zoning. The existing PAD zoning is for an approximate 18-acre Campus Master Plan including recreation fields, classroom and maintenance buildings, performing arts center, and parking. The campus is located at both the southeast and northeast corners of Galveston and 56th Streets.

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

C. LUP13-0003 CIRCLE K STORE

Approved.

Request Liquor Use Permit approval to sell beer and wine for off-premise consumption as permitted under a Series 10 Beer & Wine Store License. The new store is located at 6015 South Arizona Avenue, southeast corner of Riggs Road and Arizona Avenue.

1. The Use Permit granted is for a Series 10 License only, and any change of license shall require reapplication and new Use Permit approval.
2. The Use Permit is non-transferable to any other location.
3. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan, and Narrative) shall void the Use Permit and require a new Liquor Use Permit application and approval.
4. The site shall be maintained in a clean and orderly manner.

D. LUP13-0014 GOGI

Approved.

Request Liquor Use Permit approval to sell liquor as permitted under a Series 12 Restaurant License for on-premise consumption in a new restaurant, within a new outdoor patio, and have live acoustic music indoors only. The restaurant is located at 2095 North Dobson Road, Suite 8, northeast corner of Dobson and Warner roads.

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. The Use Permit is non-transferable to any other location.
3. 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.
4. 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.
5. Music shall be controlled so as to not unreasonably disturb area residents and businesses and shall not exceed the ambient noise level as measured at the commercial property line.

6. Live music and speakers shall be prohibited within the outdoor patio.
7. No noise shall be emitted from the live music occurring indoors that exceeds the general level of noise emitted by uses outside the premises of the business and further will not disturb adjacent businesses and residential areas.
8. The site shall be maintained in a clean and orderly manner.
9. The patio shall be maintained in a clean and orderly manner.

E. LUP13-0016 HOT POT CARIBBEAN CUISINE

Approved.

Request Liquor Use Permit approval to sell liquor as permitted under a Series 12 Restaurant License for on-premise consumption in a restaurant. The restaurant is located at 2081 North Arizona Avenue, Suite 132, northeast corner of Arizona Avenue and Warner Road.

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. The Use Permit is non-transferable to any other location.
3. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require a new Liquor Use Permit application and approval.
4. The site shall be maintained in a clean and orderly manner.

F. ZUP13-0017 VERIZON PHO – LEE LEE

Approved.

Request Use Permit approval to install a 65 ft. high monopalm wireless communication facility at 2055 N. Dobson Rd., north of the northeast corner of Dobson and Warner roads.

1. Development shall be in substantial conformance with approved exhibits except as modified by condition herein. Expansion or modification of the use beyond approved exhibits shall void the Use Permit and require new Use Permit application and approval.
2. The monopalm height shall be a maximum of 55 feet to the top of antennas.

G. PPT13-0015 MCQUEEN COMMONS

Approved.

Request Preliminary Plat approval for a 20-unit residential townhouse development located approximately ¼-mile south of the southeast corner of Ray and McQueen roads.

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

H. PPT13-0025 OCOTILLO VILLAGE HEALTH CLUB

Approved.

Request Preliminary Plat approval for a 5-lot commercial development that includes a health club located at the southwest corner of Alma School and Ocotillo roads.

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

MOVED BY VICE CHAIRMAN PRIDEMORE seconded by **COMMISSIONER CUNNINGHAM** to approve the Consent Agenda as read into the record by Staff with the clarification on Item F. The Consent Agenda passed 6-0 (Commissioner Ryan was absent).

ACTION:

A. ZCA13-0002 GROUP HOMES ZONING CODE AMENDMENT

Approved.

City initiative to amend Chapter 35, Land Use and Zoning Code, of the Chandler City Code related to adult care homes, group homes and related residential use categories.

DAVD DE LA TORRE, PRINCIPAL PLANNER stated Item A is a City Initiated request to amend the City Code related to adult Care Homes, Group Homes and any other related residential use categories. He said just to provide a little bit of background, not too long ago the Commission reviewed a Use Permit request for a Group Home to increase the number of residents from 5 to 10 and the Use Permit was subsequently denied by the City Council. Through that review of that Use Permit the City became aware that the subject Group Home was one of three Group Homes on the same street and that all three Group Homes were spaced less than 200 feet apart. To exacerbate the issue, residents in the city later found out that another property which abuts one of those three Group Homes was purchased by another Group Home provider with the intent of opening a fourth Group Home on the same block. The residents needless to say were not very happy about the clustering issue on their block and contacted the City with their concerns and to have the City address the clustering issue.

On September 26 Council held a Sub Committee meeting to discuss the issue at length and a possible Zoning Code Amendment. On October 24 the Council formerly directed Staff to initiate an amendment to the zoning code. Through this process Staff had looked at how other cities regulate Group Homes as well as working very closely with the City Attorney's office in drafting the language that is proposed before them tonight. Thirty days before tonight's hearing notices were distributed to residential neighborhood organization contacts throughout the city as well as the residents who had contacted the city with concerns about the clustering issue. The City also sent postcards out to all of the Group Homes that are licensed by the Arizona Department of Health Services or ADHS as well as applicants who have pending applications for Group Homes that are currently in the process. Citywide notification was provided through Facebook, Twitter, the City website as well as the newspaper as required by state law. Here they are today with the Planning Commission. The Introduction of the Ordinance is going tomorrow

to the City Council for their consideration and then on Friday for the Final Adoption of the ordinance.

To analyze the clustering issue, Staff mapped out all of the Group Homes that are licensed by ADHS, the Arizona Department of Health Services, and found that there were 152 total number of Group Homes in the city. This number may seem like a big number but when you consider that there are almost 70,000 single-family homes in Chandler and that comes out to only 0.2% of the single-family homes in Chandler. Another note he would like to make is 91% of those 152 homes are Assisted Living Homes which are homes that provide continuous care to the elderly. 9% or 14 of those are Behavioral Health Homes and Behavioral Health Homes provide housing for people who have been diagnosed with mental issues or addictions. An example of mental issues includes schizophrenia, bi-polar and depression and the addiction can be any kind of addition. It could be substance abuse or it could also be other types such as gambling, for example. 93% of the homes are the Group Homes that they see on the map have 5 or less residents. Only 10 of those homes on the map have 6 or more residents. This next map identifies the location of Group Homes that are located within 1200 feet of another Group Home and that ends up being 65% or 99 out of 152 Group Homes that are located within 1200 feet. They can see from the map that the issue is not limited to one neighborhood but is a prevalent issue that is citywide.

Currently, going through their zoning regulations the Zoning Code defines family as any number of related residents or up to 5 unrelated residents. Group Homes with 5 or less residents meet this definition of a family and therefore are allowed by right in a single-family home and they are not required to be separated currently a minimum of 1200 feet which is why again thinking back to that map, 93% of those dots on there have 5 or less residents. That is why they have the clustering issue because currently the Zoning Code does not regulate those. Group Homes with 6 or more residents do not meet this definition of Family and therefore, a Use Permit is required in a single-family home and a minimum separation of 1200 feet must be maintained as well as in compliance with other standards.

There are two different types of Use Permits that the Zoning Code currently provides for. Adult Care Homes and Group Homes. Adult Care Homes is a term that originated from the Arizona Revised Statutes but the statutes have been revised since they used that term and now it's been replaced with Assisted Living Homes, which again is a home that provides continuous care for the elderly. Group Homes is defined currently by our Zoning Code as anything else that is not an Adult Care Home basically. Both kinds of Use Permits have practically the same standards that are applied to both except Group Homes do contain an additional set of considerations when you are going through the review process. Examples for those standards include maintaining compliance with building code, fire code, parking requirements, no signage on their homes and they have to maintain their property and so on.

Group Homes for the developmentally disabled are excluded per Arizona Revised Statutes. The State prohibits cities from treating specifically developmentally disabled Group Homes differently than any single-family home in the city. Developmentally disabled homes are homes for people who have autism, epilepsy, cerebral palsy or other types of cognitive disorders that are

more severe and chronic in nature. Basically, the state is saying that the city cannot touch those specific types of Group Homes. When they looked at other municipalities, they found that Gilbert and Phoenix also define family as having any number of related persons or only up to 5 unrelated persons except in Gilbert's case. Gilbert, even they define family as having no more than 5 unrelated. They can have a Group Home with up to 10 unrelated people so that the number 5 in Gilbert does not correlate to the number of resident allowed in a Group Home. The same for Tempe. Tempe's definition of family says no more than 3 unrelated people but just like Gilbert you can have a Group Home that has more than 3 in Tempe. So that number in the definition of Family does not correlate to the number of people you can have in a Group Home. In Prescott, they have their maximum at 6 of unrelated people and they just amended their code to say that. Scottsdale does not have a limit. A new term for Chandler but a term that other cities use pretty frequently is 'single housekeeping units'. This is a term that they are proposing in their draft code amendments because it allows us to define whether a group of people who live in a house are considered a family or if they are considered a Group Home. This is the term they are using for that purpose. In Mesa and Glendale they found they did not have a definition for family.

They also looked at the review and the approval process for Group Homes in these cities and they found that Chandler is unique in that it requires a Use Permit for Group Homes that have more than 5 residents. Phoenix was the only other city that requires a Use Permit. However, in Phoenix's case, the Use Permit is only required when the Group Home does not have residents who have a disability. If the residents have a disability, then the Group Home in Phoenix can have as many as 10 unrelated people. Most cities they looked at allow up to 10 unrelated persons living in their Group Homes and those requests are reviewed administratively so they submitted an application and there is someone at the City who works there, who reviews the standards to make sure that they are separated (the minimum separation), and that they comply with all the other standards that they have. In Prescott's case, they allow up to 6 administratively approved. However if they have more than 7, a Use Permit is required in a multi-family district only. When they looked at minimum separation requirements, most cities require 1200 feet separation from each Group Home. Phoenix and Glendale were similar but slightly different and Scottsdale was the only city that was really significantly different.

Moving on to the proposed draft amendment, the new definition of family would read:

One or more persons living together as a single housekeeping unit in a dwelling unit.

So again, this is where they mention single housekeeping unit and this term is where they define any number of related or up to 5 unrelated persons living as a functional equivalent of a traditional family. So they are keeping that 'any number of people who are related or up to 5 unrelated the same as it currently defines it in our zoning code'. However when you continue to read, it says 'if the unit is rented, all adult residents have chosen to jointly occupy the entire premises of the dwelling unit, under a single written lease'. He underlined this for emphasis because this makes a distinction that if there is a group of 5 people living in a home, who decide to rent out the home under one lease, then they would be considered a single housekeeping unit and a family and therefore they would be allowed. A Group Home however would have separate

contracts for each resident and so they would not meet this definition and therefore be held to Group Home standards. It goes on to say 'with joint use and responsibility for the premises and the makeup of the household is determined by the residents of the dwelling unit rather than the landlord or the property manager'. These are other distinctions that they can use to determine whether a group of people living in a household are family or a Group Home. This wording by the way is taking word for word from City of Prescott and other cities that they looked at.

In the proposal they are eliminating the term Adult Care Home. Again, this is an outdated term that the state no longer uses and they are redefining Group Homes into 2 separate categories; First, Residential Care Homes and Group Homes. Residential Care Homes would be Group Homes for people that have disabilities and Group Homes would be Group Homes for people that do not have disabilities. The reason why they are defining them in this manner in terms of whether they have residents that have disabilities or not is to comply with the Federal Fair Housing Act which prohibits cities from discriminating against homes for people that have disabilities. It also requires cities to provide reasonable accommodations for those homes that have people with disabilities. For that reason they are defining them in terms of whether or not they have a disability so that they address them accordingly. The definition of disability is taking directly from the Fair Housing Act and ADA (American Disabilities Act) which reads, 'a physical or mental impairment that substantially limits one or more major life activities, a history of such impairment, or the perception by others as having such an impairment'. Again, this is word for word from the FHA and ADA. So again 2 different categories that they are proposing; Residential Care Homes for people with disabilities and Group Homes for people with no disabilities. Both would be reviewed administratively. They are getting rid of the Use Permits. Both would be allowed up to a maximum of 5 unrelated residents to be consistent with their definition of a single housekeeping unit. Both would be required to be separated a minimum of 1200 feet from any type of Group Home whether it is a Residential Care Home or just a Group Home. The Residential Care Homes according to FHA would be eligible to submit a request for a reasonable accommodation. Reasonable accommodations are essentially waivers to sway from the standards that they are proposing in this ordinance. Again, only the Residential Care Homes would be eligible and the criteria that they have for determining whether or not to grant a reasonable accommodation waiver are as follows:

The Group Homes must maintain compliance with all applicable building and fire codes and they must not create a substantial detriment to neighboring properties such as traffic impacts, parking impacts, impacts on water, sewer or other similar adverse impacts. The profitability or financial hardship of the owner or Group Home provider shall not be considered by the Zoning Administrator in determining whether or not to grant the waiver. After the notification was sent out to the Group Homes, he was contacted by several Group Homes; less than 10 Group Homes. The one point they all asked about was whether they are going to be grandfathered in and the answer is yes. If they are legally operating today as a Group Home and they are closer than 1200 feet or if they have received a Use Permit approval from the City Council to have more than 5 residents in the past, then they would honor that and that would be grandfathered in. They could continue to operate their Group Homes as long as they wish. The zoning code states that the legal non-conforming status is lost only when the Group Home is discontinued for more than 12 consecutive months or also if they change their request for entitlements. At that time they could

lose their grandfathering as well. Planning Staff will work with all of the existing Group Homes to make sure that they are all registered with the City so that they can have a solid base of grandfathered Group Homes so that when a new Group Home comes in, they know exactly where they need to measure from to maintain that 1200 feet separation.

He wanted to make one other point and that is that through this process Staff acknowledges that Group Homes provide a necessary and important need to the community and they are very grateful for the services that they provide. However, as he mentioned in the Staff memo, when they are clustered together in a neighborhood, they can begin to change the character of that neighborhood and create adverse impacts to the neighborhood. It runs really against the intent of integrating them into the neighborhood and for this reason they are moving forward with the proposal to address this issue of clustering and because of the urgency they have also scheduled it for City Council tomorrow night for the introduction and then the final adoption on Friday.

Mr. De la Torre said with that he would be happy to answer any questions.

CHAIRMAN VEITCH asked the Commissioners if they had any questions for Mr. De la Torre.

VICE CHAIRMAN PRIDEMORE asked Mr. De la Torre if he could go back in his slides where he talks about the 12 months and conditions that would need to be met in order for it to go away, what if there is an ownership change in the facility. He thinks they have similar situations that Use Permits aren't transferrable necessarily. Was there any consideration given there to more than just not operating? Mr. De la Torre said the change in ownership would not trigger or lose their legal non-conforming status. According to the zoning code they would need to be discontinued for 12 consecutive months in order for them to lose than non-conforming status. However, if there was a change in ownership and they were asking for additional entitlements such as more residents they might lose their grandfather status because they are changing their entitlements to what was previously grandfathered in. **VICE CHAIRMAN PRIDEMORE** said in looking at the more big picture now, he agrees that the clustering is an issue and the 1200 foot number that they are going to be using now he does not have an issue with. He is glad for that but he is curious as to why the changes went beyond that. Why did they not just address the clustering with a larger separation and leave it at that? Mr. De la Torre replied that through the discussions with Council and particularly on the Council Sub Committee there was a desire to control and to be more in control of the entitlements that a Group Home could have. In a sense they are getting rid of the Use Permit process and making it an administrative process. So any Group Homes that would want to have more than 5 residents would still be able to do that if they had residents with disabilities but they would go through a Reasonable Accommodation Request. So it is not taking it away the ability to have more residents but it is controlling it in such a manner to make sure that it doesn't adversely impact the neighborhood. That was the direction they received from the Sub Committee. **VICE CHAIRMAN PRIDEMORE** said he was surprised there were more hoops to jump through if he wanted 6 or more residents in his facility. The matter is what type of facility he has and whether or not he can have 6 or more residents? It seems like the number up to 10 has kind of gone away in certain situations. Correct? Mr. De la Torre replied as a matter of right, yes. You can still ask for 10 through a Reasonable Accommodation Request and that would be looked at on a case-by-case basis. It may make

sense on one particular property that has access to an arterial street so that they don't bring traffic through the neighborhood and have enough spaces for parking if the residents drive. If it is in the middle of a neighborhood and it doesn't have sufficient amount of spaces for parking that might be a different situation. It would really have to be looked at on a case-by-case basis. **VICE CHAIRMAN PRIDEMORE** said but it doesn't matter the type of facility that he may be running whether it was elderly care or behavioral. Whether he is running either of those facilities there is a process for him to get to 8 or 10 if he wants it. Correct? Mr. De la Torre said only if you have a Residential Care Home as they are defining which are Group Homes with people who have disabilities. **VICE CHAIRMAN PRIDEMORE** said so why is there that limitation now when you look at the numbers. Obviously, when the case came through that precipitated all this, they had no clue how many homes that they were looking at in total. We now have some numbers that they can look at and they see that there are only 152 homes in the city total and of those there are only 10 that have 6 or more. He is curious as to why they are making these changes when it's 6 homes. He doesn't understand why they are going above and beyond. It seems more than they need. To him separation is all they need so why are they going farther with that too? Mr. De la Torre replied that again the intent was to protect and preserve the character of the neighborhood. The direction was to limit the amount of residents who are not disabled in those Group Homes and again, to preserve the character in the neighborhood. **VICE CHAIRMAN PRIDEMORE** said he had a question for Kevin Mayo, the Planning Manager. Is there any precedent for a Zoning Code Amendment to come before this Commission as they usually see code amendments twice, one as a preliminary and one with the final language and then go to City Council the next day and another special meeting the day after? Is there a precedent in that?

KEVIN MAYO, PLANNING MANAGER, replied he couldn't think of one. He has been here 14 years and historically like the 2 most recent code amendments, the parking code and the proposed chicken ordinance that ultimately didn't pass at Council, had some different characteristics to them in which they brought them before Planning Commission in a draft reform and sought comment and advice suggestions. They then went forward with a formal draft to Sub Committee then ultimately came back to Planning Commission and Council for approval of the formal ordinance. This one is unique in that it is going through in a 3 day time period. Ultimately there are always those 3 days. You always have a Planning Commission hearing at a minimum and an introduction and a final. The difference with this one is that those 3 days are compressed basically against each other versus historically being separated by weeks. Ultimately the entire time frame becomes months so it is a little bit unique. When you look at the parking code and the chicken ordinance that came through, there are probably some unique characteristics of those 2 codes but are different from this one and a difference in a line can be drawn between them but this one is moving through pretty quick. Again, at the request by Council due to the urgency of the clustering that is occurring within a specific neighborhood.

CHAIRMAN VEITCH asked Mr. de la Torre on the proposed language itself. He said the first concerns the locations standards. It is the location sub paragraph under the Standards section for both types of facilities where in addition to the 1200 foot nominal separation it goes on to say there is no separation required where a freeway, arterial street, canal or railroad intervene. In other words, one of those physical things trumps the 1200 foot separation. Does he understand

that correctly? Mr. De la Torre replied that is correct. **CHAIRMAN VEITCH** said the other one was concerning the Reasonable Accommodation Waiver for the facilities to which it would apply. He doesn't see a limit in there as to the number of residents that can be requested through that process. In other words, he doesn't see a limit of 10. Did he miss something? Mr. De la Torre said that is correct. There is no maximum limit that can be requested. The State has a maximum of 10 for their licensed Group Homes so they would probably develop to their maximum.

CHAIRMAN VEITCH said at this point they will hear from the public. He said he had a number of speaker slips which he has separated into those that have indicated they wish to speak and those who have not indicated that. He said he would read the names on the speaker cards who have indicated they are in favor of the item but have not indicated a desire to speak.

ROBERT KAMPFE, 2481 E. BELLEVUE PLACE

JOHN HENRY, 2163 E. FIRESTONE DRIVE

QUENTIN GERBICH, 6870 S. JUSTIN WAY

JAMES DUNLAP, 2105 E. COUNTY DOWN DR.

DAVE SCHLAU, 2184 E. FIRESTONE DRIVE

GARY HOWARD, 2121 E. DESERT INN DRIVE

LEO MAHONEY, 2123 E. FIRESTONE DRIVE

KAREN MAHONEY, 2123 E. FIRESTONE DRIVE

MARY ELLEN COE, 2163 E. FIRESTONE DRIVE

AMY OCEAN, 2185 E. COUNTY DOWN DR.

SHERRI DUNLAP, 2105 E. COUNTY DOWN DR.

JANET HOFFMANN, 2195 E. COUNTY DOWN DR.

KAREN FRANUS, 2081 E. ARIZONA AVE.

CHAIRMAN VEITCH said all of those people have indicated their support for the proposal. He said he had 4 speaker slips from people who have indicated that they wish to speak. He will call them up in the order he received them.

JEFFREY MARSH, PROPRIETOR OF A SOBER LIVING RESIDENCE WITHIN THE CITY LIMITS OF CHANDLER, said he is here to speak on behalf of his company and himself to say he is not in favor of this amendment that is coming up. He said he operates what is considered a Sober Living Residence which is actually not classified as a Group Home and not classified as a Residential Care Home because they provide no services as such. He was informed about this law in September or early October while he was in the process of applying for a Use Permit from the City of Chandler for his Sober Living Residence. He was doing that process and he was asking for a variance of more than 5 people located in the house and asking for 10 and within a month period he was told about this amendment coming through on November 2nd and that this process was going to happen and since he was an owner of what the City of Chandler is classifying as a Group Home, he would be affected by this legislation. He immediately raised a concern with the City of Chandler via his e-mails and stating if they are considered into this classification of a Group Home, this will definitely adversely affect his business.

Basically he is opposed to this amendment based on 3 reasons. One is the classification that they are a Group Home. His business that he runs is a Sober Living Residence which does not provide any services whatsoever like a Group Home would. They don't provide any counseling, any medical, any food or oxygen to residents. They are not considered a traditional Group Home for the handicapped for the elderly. They are not licensed so they are not falling under any of the licensing from the State of Arizona. What they give is basically a safe place for recovering addicts and alcoholics and the City of Chandler and the State of Arizona a safe place to come and stay between 3 to 6 months and achieve a level of sobriety so they can go back into normal society. What he is asking for is that they have a continuance on this and not rush to make this pass which seems rather quickly that they are going through this process because it will adversely affect him. One of the primary reasons he wants to ask for a continuance is that they can have Study Sessions like the parking problem they were having in the City of Chandler where it took about 7 to 8 months. They had different Study Sessions with both the public and the owners of the businesses and what not and were able to get all parties involved. He feels he did not have an appropriate voice to speak his concerns. After the e-mail he sent, he was not responded to. He was just basically told that they were going through this and he can come and speak. That is the first issue and they want to come and educate the City of Chandler and the public of what their business is and it is not considered a Group Home and they don't want to be lumped in with that.

The second concern as the Vice Chairman stated, is the insistence of having no more than 5 unrelated persons excluding staff living together as a single housekeeping unit. The issue he has with this and again if they are going to classify them as a Group Home is that under the Fair Housing Act and Housing and Redevelopment Organization by the Federal government that a Sober Living Residence is considered a family unit. It is not classified as a Group Living Home. They are actually classified as a family unit. If he is restricted on the amount of people he can have in that house, the City of Chandler is breaking Federal law. He already notated in some of the other amendments from other cities especially with the City of Sedona and some other cities in California, it has been proven by Federal law that they are considered a family unit and any kind of restrictions has direct impacts on the Fair Housing Act.

The third issue he has with this ordinance, the City of Chandler has defined a group of unrelated persons of 5 or more as not a family unit. Basically, if he was an operator of a Group Home per say or a Sober Living Home, he could come in here in the City of Chandler now according to this law and operate and not have to register. The law is saying that you have 5 or less people. Technically, he doesn't have to register as a Group Home because he is already under the law as 5 unrelated people. Basically, the law of 5 or more people doesn't apply to him because he would have 5 or less people. They already have a law stating 6 or more, they are not going to allow it unless by special permit but anybody with 5 residents that are unrelated are still allowed to live in a house. If he was an operator, why would he have to go and register that he is a Group Home if he is already legally allowed. He doesn't even have to register he can just call the rental property and have 5 people there and he wouldn't be violating any laws. He thinks it is not clearly defined. That is why he is asking that they have a continuance to they can better vet the process and the ability for operators like himself and other operators within the City of Chandler and obtain Use Permits and not rush this whole process through within a month's time. That is pretty much his oppositions as to why they are having this meeting and why they are going to try to go through with this. He asked Commission if they had any questions for him.

COMMISSIONER CUNNINGHAM asked where Mr. Marsh lived. He replied he lived in Tempe, Arizona. **COMMISSIONER CUNNINGHAM** asked if he lived in a neighborhood. Mr. Marsh said yes he lives in a neighborhood. **COMMISSIONER CUNNINGHAM** asked if there was a business right next door to him. Mr. Marsh replied yes there is a Group Home right next door. **COMMISSIONER CUNNINGHAM** asked how many people were in that Group Home. Mr. Marsh replied he thought there were 5 or 6 residents but he wasn't sure. It is an elderly care home. **COMMISSIONER CUNNINGHAM** said so it is an elderly care home. Are there multiple cars coming and going? Mr. Marsh said there are maybe 2 or 3 since it is elderly and most of them are disabled so there is not a lot of traffic for that. **COMMISSIONER CUNNINGHAM** asked if they were active. Are they out in the backyard? Mr. Marsh replied they are in the back yard. **COMMISSIONER CUNNINGHAM** asked if they were interfering in his back yard. Mr. Marsh replied no. **COMMISSIONER CUNNINGHAM** said the Group Home that he is talking about, how does it function? Does it have several vehicles there? Mr. Marsh said how he operates as a Sober Living Residence is that he limits the amount of vehicles to what available parking spaces they have within the house. This particular house that he has in Chandler is a 3800 square foot, 2 floors with 10 people in there. It is a 5 bedroom house, 3 baths and he has 2 people in each room. There is a 3-car garage and there are 3 additional parking spots outside the garage. They only allow a maximum of 6 residents to have a car there. He has additional homes in other cities in the east valley. He and his business partner coordinate based on availability and space of the different homes. Who has cars and who doesn't have cars? They abide by the HOA laws and the City of Chandler laws for parking. **COMMISSIONER CUNNINGHAM** said so you try to blend in as good neighbors. Mr. Marsh replied yes. **COMMISSIONER CUNNINGHAM** said that is very good and she commends him for that. However, in this city they have had circumstances where some Group Homes did not try to fit in and did not act as good neighbors in the neighborhood and made it very obvious that they were not a residential home and they were in fact a business. That is the reason this has come up before them. She is not sure if it is necessary or unnecessary to rush it through but she does

know that to protect their neighborhoods they have to be vigilant and they have to have something that gives them the power and the authority to be vigilant. When you asked for it not to be done, they are leaving neighborhoods open to businesses who are not treating the neighborhood as a residential neighborhood. Mr. Marsh said he is not asking that he doesn't pass this. He is asking that they have a continuance so they could go through the process and vet it out a lot better for both the City of Chandler and the operators of these types of businesses. **COMMISSIONER CUNNINGHAM** asked him what in this concerns him. If his particular Group Home is dealing with disabilities and would not necessarily be affected, what in it concerns him? Mr. Marsh replied the Residential Care Home addition under the Article 235-200 definition. His understanding of this amendment is it is going to include any Group Home or anything that is involved with 6 or more people living in a house for whatever reason. That is where his issue is. He has no issue with the location of having the 1200 feet distance between those homes. He thinks that is a great idea but he does have an issue with the capacity and grouping what they do in with the Group Homes. It will severely limit his ability to operate and provide the housing that he does. He is not saying that he doesn't want to stop this. He just wants to ask for a continuance so that they can go and vet the process and come up with a solution that meets everybody's needs and actually have some of the owners participation in it – other businesses classified as Group Homes to have some participation in this process as well not just the citizens and the City of Chandler. He is all for having the regulations of some sort. He is not saying he doesn't want any regulations. They are doing this in the City of Gilbert right now. They have created a Sober Living Residence ordinance that is very similar but does not have that 5 person limitation. **COMMISSIONER CUNNINGHAM** said she had a question for Staff. If they tabled this for further discussion, is there any way to suspend processing applications until this is reviewed and settled?

GLENN BROCKMAN, ASSISTANT CITY ATTORNEY, said if this got continued to another time, then the current rules are still in effect.

COMMISSIONER WASTCHAK said he can understand that his concern is that he feels Sober Living falls under a definition of a Group Home. Mr. Marsh replied that his concern is that is what the City of Chandler would consider it as – a Group Home. **COMMISSIONER WASTCHAK** asked Staff that in the table Residential Care Homes and Sober Living Homes falls under a Residential Care Home and a Residential Care Home is eligible for a Reasonable Accommodation Waiver which would allow anything over 5 people there. Mr. De la Torre replied that is absolutely correct. Sober Living Homes are considered Group Homes for people with disabilities and therefore are considered a Residential Care Home which would be eligible to request a Reasonable Accommodation Waiver. **COMMISSIONER WASTCHAK** said so if this is approved, you could apply for a Reasonable Accommodation based on what he is saying. He said he wanted to clarify that because Mr. Marsh falls into that ability to get more than 5 where if he was truly a Group Home under that definition, he wouldn't. Mr. Marsh replied his adherence to that is that means every time he apply for permit, he will have to apply for this application to have a Reasonable Accommodation which is up to one person to arbitrarily decide if he is going to have it or not have it. It is just going to be an approval process and somebody could actually not approve it and say no they are not going to allow it. They could be having a bad day and decide not to approve his Reasonable Accommodation. **COMMISSIONER**

WASTCHAK said his concern is that it will not be heard by Planning Commission or Council as it is now. Mr. Marsh replied yes.

GLENN BROCKMAN, ASSISTANT CITY ATTORNEY, said the procedure that has been developed and the changes that are proposed deal with that particular situation that the speaker is talking about by providing for an appeal to the Board of Adjustment. The Zoning Administrator or one of his designees has to make the initial decision or determination that a Reasonable Accommodation waiver should or should not be granted. If they denied the application, the applicant could still appeal to the seven member body that makes up the Board of Adjustment.

COMMISSIONER DONALDSON asked how long Mr. Marsh has been operating the business in Chandler. Mr. Marsh replied he has been operating the one in Chandler since February of this year. He has been in business since January 1, 2012 with other residents in other cities in the east valley. **COMMISSIONER DONALDSON** said so since February they have been operating with 10 residents and he was approaching a Use Permit and became aware of this because he had over 6 residents. Mr. Marsh replied correct. In early August he received a citation from Code Enforcement for having more than 5 unrelated people in his house which he wasn't aware of the rule. At that point he went through the process of going to the City and saying what does he need to do be lawful. He was told to go through Chandler's Use Permit process. That is what started the ball rolling. **COMMISSIONER DONALDSON** said when he started the business in Chandler did he believe that he had just the property right in order to have 10 residents. Mr. Marsh said yes he didn't understand the rule of the 5 or more residents in an unrelated home. **COMMISSIONER DONALDSON** said so when he started the business in Chandler he didn't find what the rules were associated with starting a business in Chandler. Mr. Marsh replied he did not.

VICE CHAIRMAN PRIDEMORE asked Staff who made up the Sub Committee for this change to the code. Mr. De la Torre replied the Sub Committee was attended by six Council members. The only person not attending was the Mayor and the Mayor doesn't attend the Sub Committee so as many Council members as they could have had were present at that meeting. **VICE CHAIRMAN PRIDEMORE** asked if that was for the members of the public as well. Mr. De la Torre replied yes it was noticed and open to the public and in fact they did have one member from the public in attendance. **VICE CHAIRMAN PRIDEMORE** said so did that Sub Committee meet only one time? How long did the Sub Committee meet? Mr. De la Torre said it was a one-time event for a couple of hours or so. **VICE CHAIRMAN PRIDEMORE** said so there was the six Councilmembers, not the Mayor and one resident.

GLENN BROCKMAN ASSISTANT CITY ATTORNEY, said to elaborate on that, the Sub Committee's recommendation was presented to Council as a group who then directed Staff to go forward with this matter and secondly the use of the Sub Committee is not unusual. They did it with the Medical Marijuana regulations as well.

CHAIRMAN VEITCH thanked him for that clarification.

LARRY HOFFMAN, 2195 E. COUNTY DOWN DR. said he is here to represent Cooper Commons Neighborhood Preservation Action Committee and by default a lot of other Chandler residents who purchased homes in single-family neighborhoods at least that are zoned to single family. He spoke before Planning and Zoning and to Council back in June of this last year and with that said he could tell them that none of the people in their group feel like this is an issue that has been rushed through to produce a new ordinance. It has been extraordinarily challenging to meet the needs of both single-family residences and the residences being operated as Group Homes.

At the time he was here they clearly stated that our intentions were not to eliminate Behavioral or Assisted Living for those who were in need. What they did state in regards to their intentions amongst other issues is that they needed a limitation on the number of patients housed in a single-family home and they needed help in preserving the integrity of their single-family neighborhoods by addressing the density issue. They called on the City to consider an ordinance that would one preserve the integrity of their single-family neighborhood and that would be the density. Insure the safety of those who reside in there and this case it would be the significant traffic and protect their personal and financial investment in their homes. They have before them tonight a proposal designed to do just that. After careful study by the City of Chandler Planning has proposed one, a plan that leaves the definition of family as it has always been but creates a definition Residential Care Facility for a Behavioral Group Homes and Assisted Living Facilities. They also have proposed a plan that addresses the density of such homes in a single-family community. It creates that mandatory 1200 foot separation from any other Residential Care Facility. It also as you know and was stated earlier, that separation now only applies to homes operating with a Special Use Permit for greater than 5 residents. It is important to them because Chandler's density in regards Residential Care Facilities to the total of single-family residences is .02%. If this 4th house is approved in their neighborhood, they are going to be at 15%. Out of 27 houses on a 2 street area in Cooper Commons they are going to have 15% Residential Care Facilities. It certainly compromises the neighborhood they thought they bought into as residences.

Another important thing to point out is that the 1200 foot designation is consistent with what the state does and what Gilbert, Tempe, Mesa and Prescott also do. They have not established or asked for anything that was out of the ordinary or something that hasn't been done before. Finally, Planning has proposed a plan that maximizes the number of residents in any facility. There may only be 5 facilities in the City of Chandler that have as many as 10 patients but he's telling you if you are the person that owns the home next to the one that has 10 residents, it is a challenge that you have to deal with not only in everyday living but as you attempt to sell your house as well. Planning has put thoughtful consideration into this proposal. It's not perfect for them as owners of single-family residences but generally it meets the needs of them as single-family homeowners. It still allows for the operation of businesses in single-family areas that are not zoned for businesses. Frankly, that is a privilege that his business does not enjoy. In a positive for that side, it does provide for the neighborhood experience for the patients that are being served by the residents of these homes. He thinks that is a win for that side as well. For all this said, they respectfully request they support the ordinance proposal before them with a yes vote.

VICE CHAIRMAN PRIDEMORE welcomed Mr. Hoffman back. He asked Mr. Hoffman if it was his back yard that backed up into one of the facilities. Mr. Hoffmann said correct it was a Behavioral Group home that was trying to expand. **VICE CHAIRMAN PRIDEMORE** said he was curious to know if things had calmed down with that facility and have there been any more incidences since the last time he was there. Mr. Hoffman said not to the degree they spoke to the last time.

DEBORAH KOPP, 21012 S. COOPER, FACILITY ADDRESS IS 2053 E. TORREY PINES PLACE said this facility is also in the Cooper Commons neighborhood and they have been existing there for about 5 years. The traffic they are having an issue with is not an issue with an elderly home or a home that accommodates the elderly because typically they are not getting up, going and doing. In another city in Gilbert they had an issue with the Assisted Living home until the prominent attorney in the neighborhood needed assistance for their mother-in-law and then it was o.k. The HOA was o.k. with it. That struggle has always been prevalent. She did not get a letter saying that they were having a struggle in their neighborhood with the occupation of Assisted Living facilities. She does not have an aversion to the 1200 foot rule but she truly does have an issue with the number of occupants.

The Chandler home was her 3rd facility and she took that home over for someone who apparently thought there was a lot of money to be made and could not keep staff, could not pay the rent for 6 months and this is during the time when the economy was recessed to that and there were vacant homes everywhere – 6 vacant homes just on their block. She took the home over and her intention was to occupy more residents because her other facilities are all 10 bed facilities. When they told me of the restrictions, she went with that and intended to get a zoning variance. That process is very cumbersome so ultimately when they keep saying 6 residents, what are they implying because she keeps seeing that it is 5. She was told originally that it was only 5 residents. Truly is it 6 residents or 5? Mr. De la Torre replied that currently if you have 5 or less residents then you can be there as a matter of right. You don't need any kind of permission for the City to be there. If you have 6 or more that is when the Use Permit requirement kicks in. Ms. Kopp said so what about her staff because now that the law – Arizona Dept. of Health Services has just changed, the rules are that she must have 24 hours of staff. Now that means there is another resident of the facility 24 hours of the day. Mr. De la Torre said if the staff do not live there, they are not included as part of the count. If it is 6 residents with staff that don't live there, than it is still 6 residents. Ms. Kopp said so if she owned that home herself and she opened that home and she was the one that did the care with her cousin who performed the night and day duties, does that now mean she can only have 5 residents or because now she is a resident of her home that equals 4 residents. Mr. De la Torre said that is correct because if she lives there she is counted as one of the residents.

Ms. Kopp wanted to address the value of the homes. An Assisted Living Facility cannot be purchased as a home. It does not denigrate the value of the home itself. It is still the home only with the business operating there per say as a business because you have people who are residing there with lease agreements. If they are going to be purchasing that, it would have to be as a business loan – a commercial loan. It is very difficult and those types of people who are taking

that business are very conscientious of the laws, the rules. They adhere to the Arizona Department of Health Services and the NCIA rules so ultimately it's not just anybody that throws a residence in a house and starts jamming up the parking.

She said when they are talking about a disability she doesn't know if alcoholism or drug use is a disability which would definitely hinder the first speaker and she definitely thinks of the residents she takes care of with Parkinson's, Dementia, and Alzheimer's. Alzheimer's is consuming our population. It increases by the millions every year so the families they serve have families that cannot care for that person in their own home. For them to go to a center or a larger facility is very, very expensive so they serve the community in so many ways that it is not even plausible to restrict that. Her 10 bed facilities are not encumbering to her neighborhood. They are grateful. They bring things over at Christmas, they ask the Girls Scout groups to come and perform skits and volunteers. She is not exactly sure that their elderly should be daunted as far as where they choose to live. If they are choosing to live in that neighborhood because their family lives 2 or 3 doors down or 2 miles away, that should still be their choice. It is the State's limits at 10 which most every other city does – limits 10 for a care home. She doesn't see why it is such an issue with the City of Chandler because that is why you have your density issue.

SUSAN ARCHER, 3348 N. CHESTNUT STREET, MESA, said she is representing the Arizona Coalition for Assisted Living and they are a homeowner's type of association for Assisted Living Homeowner's to give themselves a voice in these communities and within the state. They have been down with the state department on new rules within the department's health services, they have been part of that integration, and take their industry and the lives they protect very seriously. She would not be in favor as it stands for this proposal though she doesn't vote in the Chandler area. She is just thankful for the opportunity to have her voice heard today.

It is unfortunate that they have had experiences with bad neighbors that some happen to be Group homeowners. She has had bad neighbors who have nothing to do with Group Home ownership. She doesn't know if that is a conclusive statement to say that a Group Home owner should all be restricted because of the situation of a bad neighbor. They have all experienced bad neighbors. She had an old dog pound open in her neighborhood that made the news and everything and it was horrific and that was because they weren't caring properly for the animals that they said they would take care of. Those that bring people into their care homes to take care of, 99% of them do a great job. The ones you hear on the news are the anomalies not the regular events. Most other cities do allow up to 10 residents in the home provided the home is large enough to accommodate those residents. They all follow HOA rules. The Department of Health Services in addition to that will tell them if their house needs to be painted because they would call that in disarray so they are under more scrutiny than the average homeowner. They did not present a parking issue as their residents by definition are disabled. If they have come to them, it is because they need assistance with their activities of daily living. They cannot shower alone, they cannot medicate themselves properly alone, and they cannot cook their own meals and be nourished and hydrated properly alone, so by definition they are disabled. She would like to see the Assisted Living Home classification be removed from the Group Home setting because she

believes they are a very different, unique population and they are not ex-cons who are in a halfway house not recovering drug addicts. Those homes are needed also.

She is in agreement with the 1200 foot limitation which most other cities stated do have. In the other cities anything that is above 6 to 10 has that distance barrier. Anything 5 or below have been allowed to cluster. There is no distance requirement for them. Perhaps that could be the place to start and as the first gentleman suggested, take some time. He understands that it seems a pressing issue but it is a pressing issue on both sides. Both sides need the opportunity to express what they do, what they bring to a neighborhood instead of only what they detract from a neighborhood so she requests that they take a little more time, talk about the clustering issue, and obviously places are grandfathered in. She is a real estate broker who specializes in the buying and selling of Assisted Living Homes. She just did a deal in Chandler and had to call and make sure that somebody who buys an existing business has gone through the whole SBA loan process and they will be allowed to continue running that business with the 10 residents. They happen to be 2 of the homes that have 10 residents and she was told yes and they went through with the deal. So if somebody purchases an existing care home at whatever number they are, they are grandfathered in provided it has been a continuance of residency. She asked if that was correct. Mr. De la Torre replied that was correct. Other cities are doing some other clamping down too and they are very involved right now with several other City Councils. All of this is putting the squeeze on.

Everybody is aware that the baby boomers are here and this population is ever aging and she is going to speak for the Assisted Living part of this. They need some place to be. The most abuse they hear about is within their very own family homes because they are neglected and not treated properly because those sons and daughters are out working all day – not intentionally, not purposely causing harm but not properly housing their loved ones in a place like an Assisted Living Home so that they can be properly cared for. Please do take some time and consider the issues, consider the population that they are dealing with and they would certainly hate to be putting people out on the street.

CHAIRMAN VEITCH asked Mr. De la Torre to reiterate that Assisted Living Homes will be considered Residential Care Homes and would also be eligible for the Reasonable Accommodation. Mr. De la Torre replied to the Chairman that was correct and Assisted Living Homes would be considered Group Homes with people who have disabilities and therefore would be eligible to a request for a Reasonable Accommodation who have more than 5 residents in their home. Ms. Archer asked if he had a percentage number of people who have asked for that variance and not received it. Mr. De la Torre said they don't have that process right now so it is a new proposal. The details haven't been hammered out yet so they will be figuring details as they move on. Ms. Archer said they have trepidations about what percentage of people who would be allowed to have that kind of variance and make those homes function the way they need to. **CHAIRMAN VEITCH** said as the Assistant City Attorney indicated a moment ago, a denial of a Request for Reasonable Accommodation is appealable to the Board of Adjustment.

COMMISSIONER CUNNINGHAM thanked Ms. Archer for being there. She mentioned that they have 2 people in each bedroom. Is that a state requirement – no more than 2 in a bedroom?

Ms. Archer replied that is correct. **COMMISSIONER CUNNINGHAM** said so the very size of the house would limit how many residents there would be. Ms. Archer replied that is correct and also the size of the room. There is a square footage minimum for each resident. **COMMISSIONER CUNNINGHAM** asked if that would also include Staff. Ms. Archer said yes. **COMMISSIONER CUNNINGHAM** said so a 4 bedroom house could have however many staff members in one bedroom and no more than 6 residents per State regulations? Ms. Archer said it couldn't be however many caregivers, it would still be limited to 2 provided that it still meets the square footage and window egress, fire department codes and all of that. The room still has to meet those codes so within the City of Chandler the answer to that question was no because you could not have those 4 or 5 people into caregivers or 3 caregivers – if the caregiver is living on the premises. **COMMISSIONER CUNNINGHAM** said if it was 6 residents plus staff members then it wouldn't be one of the special requirements. She is just asking how many actual people could live there according to state regulations. Ms. Archer replied that according to State regulations currently in other cities you can have 10 residents and the caregivers if they live on site are not included in your population because they are able bodied. They are there to help the others get out if there is an emergency.

COMMISSIONER WASTCHAK said to Mr. De la Torre that when he was reading the Residential Care Home in parenthesis it excludes service providers, members of the service provider's family, or persons employed as facility staff. It doesn't say that those people wouldn't be living there so the way he reads it is they are allowed to be living there and not included in the 5 because it specifically excludes them, right? Mr. De la Torre replied that was correct and that is what they are proposing. Currently that is not how the Zoning Code defines it. **COMMISSIONER WASTCHAK** said so the new code would not include staff that are living there. You could have up to 5 and staff and that would be 7 and that would fall under an allowed use and you don't need to get the Reasonable Accommodation waiver. Mr. De la Torre said that was correct. **CHAIRMAN VEITCH** said you can always provide it if the structure offers enough room to meet the state licensing. **COMMISSIONER WASTCHAK** said he just wanted to clarify that. Ms. Archer said thank you because that sounds like a different answer than what was previously answered when Deborah Kopp was up there and maybe she misunderstood. **CHAIRMAN VEITCH** said the difference is that sometimes there is confusion with what the current ordinance says and what the proposed ordinance says. Ms. Archer said so the proposal would allow 5. **COMMISSIONER WASTCHAK** said the proposal is a little better. Ms. Archer asked also additional in-home live-in type of staffing? Mr. De la Torre said that is correct. The proposal would allow up to 5 unrelated persons excluding staff who are not living together. That number excludes staff.

GLENN BROCKMAN, ASSISTANT CITY ATTORNEY stated that currently that same type of facility with just 5 would be defined as family under their current code. The current code uses the term 'excluding servant' which is kind of old language but it is the same thing. There really isn't going to be any change in the way they calculate the number of people under the new provisions.

QUENTIN GERBICH, 6870 S. JUSTIN WAY, said the issue of Sober Living really bothered him when that was brought up. That being they said 10 residents, 6 cars in a residential

neighborhood; six cars of drug addicts and people trying to get sober. In his mind that is extremely dangerous. That is like a DUI haven for people who are using drugs and people to be drinking. He knows they are in a Sober Living but there is a reason they are in Sober Living – they are not sober yet. If they are driving around the neighborhood while impaired by alcohol and drugs and they are in residential neighborhoods where there are kids and people walking around, that is extremely dangerous. It is still unclear to him whether they are included in the whole Group Home thing but that is just one of the many, many issues as to why they are here tonight because of that danger factor. If they can't be safe at home, where can they be safe at? The big thing for him that keeps coming up that really bothers him the most is they keep saying their business. He lives in a residential community with a family, his wife and his kids. He doesn't live in a business district where he would buy house above a bar like Cheers or something. It is a residence and that is the way he would like to keep it – as a residence. He understands there is a need for things and he is not against Assisted Living. He understands there is a need for it but it does bring a lot of traffic at least to the ones on his block. He understands it is the nurses and they do their best to drive properly and everything else like that but the whole behavioral health issue and the Sober Living thing is a whole another ballgame. It is bringing in an entity of unsafe behavior into some place that should be place for our families.

MR. DE LA TORRE, PRINCIPAL PLANNER said he would wanted to clarify that Sober Living homes and the residents who live in Sober Living Homes are actually sober and the purpose of the home is to provide a transitional living environment that is structured. At the time that they are living in a Sober Living environment they are not using drugs or alcohol and they are sober but they just need a little bit of help to transition from the rehab they came from to live independently. He just wanted to clarify that. Mr. Gerbich replied he understands that. He said he didn't want to bring this up but he is a DUI Police Officer. It is what he does and he has won major awards for it. They are in transition and they are getting sober. However, things slip up – it is part of the process. When they slip up, that is when it gets dangerous. Most of the things that happen when they are trying to get sober and they slip up, who is paying the consequences for that. Yes, they are sober for 2 months and then they slip up and then there is a major consequence for it. He takes fatal collisions all the time because of that and that is when it really gets bad too - when you are sober and then you have that flip. It does happen and it happens quite a bit. He said he promised himself he was going to stay quiet tonight but when he heard that, it just really bothered him. **CHAIRMAN VEITCH** said he indicated on his speaker card that he is in favor of the proposal and the proposal would subject facilities of the sort he is talking about to more regulation than they are subject to now, at least at the 5 and under population level.

CHAIRMAN VEITCH closed the floor for public speaking and invited discussion from the Commission and questions of Staff.

VICE CHAIRMAN PRIDEMORE said as he stated earlier, he thinks they have an issue that needs to be addressed and that is the separation issue to hopefully deal with the clustering issue that has been brought to the City's attention. What he wants to do for his peace of mind is there are two things that he has issue with and the current situation they are seeing here. One, he thinks it could have been restricted to just changes to the separation and he doesn't think the

other language changes were necessary at this time. He is also concerned that some of those changes may lead to litigation to the City down the road if they would pass in their current form. The second issue he has is the due process for this particular item, as it is going through and how quickly it has been going through. Even if there was a week before this would get to Council, that would alleviate some of his concerns but the fact that they are seeing it here tonight for the first time and it could potentially go to Council tomorrow with a Special Council meeting on Friday, that really bothers him. Because of that he is going to make a motion for a continuance and he doesn't know if that has any traction up here but again, for his peace of mind he at least needs to put it on the table.

MOVED BY VICE CHAIRMAN PRIDEMORE to continue Item ZCA13-0002 GROUP HOMES ZONING CODE AMENDMENT to the November 20, 2013 Planning Commission hearing

COMMISSIONER BARON asked Vice Chairman Pridemore what he was expecting to happen in the time frame. **VICE CHAIRMAN PRIDEMORE** said he would really like to see the language reduced to just the separation. He said they all know this was precipitated by the case they saw during the summer. The homes existing in the area obviously nobody seemed to know about because they were acting like residences, looked like residences. They had one troublemaker which they obviously recommended denial on when that was carried through. It did bring an issue with the current code which is the separation. He really would like to see the language reduced to the separation issue. The other is the speed. Even if they would approve it or however it went forward if there wasn't a continuance tonight, somebody who is out of town is going to basically miss the opportunity to speak on this whole thing. He would like to see at least a week between their meetings and Council. They don't have that in this case and it bothers him.

COMMISSIONER BARON said he completely understands what he is saying. He has been pretty quiet tonight but from his perspective in doing the type of work that he does, he doesn't know that he has ever gotten a project through Commission and Council back to back especially something of this magnitude. When they are making a code change, it really is about the public and municipality. His biggest challenge is that they are taking away the one process that they have as a Commission to be able to hear challenges in a community and that is the Use Permit. For them to be able to be able to weigh in on whether or not from a practical sense like it makes sense where it is located, or if there are issues and there is some recourse to be able to sort of penalize folks not doing what they should be doing to be a good neighbor. That does bother him a bit. As Vice Chairman Pridemore pointed out, he thinks there probably should have been a little bit more public outreach and involvement so that they could solicit feedback from operators and find out maybe if there are some processes that should be in place to help sort of check and balance. That being said the language itself he doesn't necessarily have an issue with. He thinks the spacing has really been the biggest issue from the very beginning from the various cases that they have heard. He does agree with Vice Chairman Pridemore that he feels like this is being rushed from the standpoint that they do have folks in a neighborhood that are very concerned about it because it is immediate to them. Frankly, he thinks that this in some form would probably be passed but he doesn't know that they have given it the time it should be given. It is

a code change and it affects more than just one neighborhood; it affects the entire city. He agrees they should continue it to the next meeting to allow some time possibly for initial public outreach and some additional discussion for maybe some other business operators and other public. He said he would second the motion.

CHAIRMAN VEITCH said regarding the Vice Chairman's suggestion it seems he is suggesting that they keep the same regulatory scheme by right 5 and under, Use Permit for 6 and above. **VICE CHAIRMAN PRIDEMORE** replied correct. **CHAIRMAN VEITCH** said also adding in the location restrictions that have been proposed. That will of necessity require registration even of the 5 and under. **VICE CHAIRMAN PRIDEMORE** said they should already know the number of homes in the city if they didn't. That's a bigger problem for him. He is going on the assumption and maybe he is wrong. He asked Staff that before this issue, did they know how many homes existed. If he had come to them six months ago and asked how many Group Homes existed in the city, would they be able to answer him? And get down to the detail and tell him where they are.

ERIK SWANSON, CITY PLANNER replied yes. They have a zoning clearance application form for Assisted Living facilities both for the elderly care process and for the behavioral health group home. They have that process and they track that. They also create maps that correlate what the state has registered with what they have registered. Granted, the only fault in that is that the application is only a few years old so homes that have been in existence for a decade obviously they don't pick up on their process but they do pick up through the states process. They always check those back and forth and update. This does not solve the issue of those that kind of go rogue and open up illegally but if you came to them and said you would like to know at the next Commission meeting how many homes they have that is certainly something they could do and they could produce the map. **VICE CHAIRMAN PRIDEMORE** said it sounds like there is an on-going dialogue or at least some back and forth in between the City and the State regarding this item even if it hadn't come up before them. There is some dialogue that takes place regularly. Correct? Mr. Swanson replied yes he is the one that usually does the zoning clearance forms so he has return conversations with various numbers of the State staff and it is a list that they produce in multiple formats on line that they generally send monthly. They always update as soon as they get it out. They try to keep their database as current as possible. **CHAIRMAN VEITCH** said so with the current procedures they could add in the location restriction without any difficulty. Their current zoning clearance process if they were now to add in the 1200 foot separation with the exceptions for the arterial streets and canals, they would be able to do that? Mr. Swanson replied yes, absolutely.

GLENN BROCKMAN, ASSISTANT CITY ATTORNEY, pointed out that he knows this process seems a bit rushed with the Council meeting tomorrow but there has been over two weeks' worth of notice of both this meeting and the one tomorrow. The process typically with anything coming before them that involves a zoning action or a zoning code change will have dual long term notification process. A matter comes before their group for a recommendation, when it comes to Council there is still the opportunity for every one of these folks to appear tomorrow. Having received more than 2 weeks' worth of notice of that meeting, typically the 3rd meeting (the odd one for them) is the Friday meeting but that is a final approval process that

involves no public hearing. The other thing he wanted to make clear is that the distance requirements to the extent that are in the code now, the measurement is of other group type homes of the same type – that is more than 5. They don't measure the distance from those facilities that will constitute Group Homes or Residential Care units that currently are defined as family. **CHAIRMAN VEITCH** said he thinks they do understand that under 5 is not currently subject to a separation requirement but would be under the proposal. **VICE CHAIRMAN PRIDEMORE** said in the end he acknowledges that there is a problem and he would like to see that problem fixed. He thinks it could be handled differently than what they have seen up to this point. He said he would like to see something get approved but he would like to see it in a different form than what they are seeing.

KEVIN MAYO, PLANNING MANAGER said he wanted to add to the notion of a continuance. As they prepared this draft code and ultimately set forth the process in which it is going through, it is not something that is done haphazardly and it is not something that is kind of pulled out of thin air. Ultimately, this code change is at the direction of Council and ultimately the time frame and compressed process which they are going through is a direction from Council. They have recognized and identified the urgency and have set forth the request to have this compressed process. They are looking to Planning Commission for a recommendation. In the event that if there is a different way to skin this cat, he would urge them to send forward that recommendation of either a denial with these changes that are necessary or a recommendation of approval with some caveated changes as well. Simply a recommendation for a continuance will be troublesome simply because they are the ones that have identified the issue, the urgency, the draft code and ultimately the process in which it is going through. He said he wanted to pass that along.

CHAIRMAN VEITCH said he sympathizes with the concerns that have been expressed about the process. Rushing public policy often doesn't result in good public policy but he doesn't share all of Vice Chairman Pridemore's concerns about the scope of the proposal. Sure it is a lot of words. A lot of it just goes to clarify definitions of things and get them into a modern state in terms of the way that the other levels of government define them and so forth. All they are fundamentally doing is registering every Group Home so they know where they are so that they can enforce the separation requirement and applying some standards uniformly to all and then offering the types of facilities that are eligible for the opportunity to go above 5 through the Reasonable Accommodation procedure. Granted that does not necessarily include a public hearing unless the request of waiver is denied in which case there could be a public hearing if there is an appeal to the Board of Adjustment. That may or may not be a flaw depending upon your point of view.

COMMISSIONER WASTCHAK asked what was the thinking in taking out the public hearing process and putting it into a Zoning Administrator decision? Mr. De la Torre said that was a great question. The intent of taking the Use Permit process out was to better comply with FHA requirements which prohibit discrimination of Group Homes who have residents with a disability from other single family residents. Currently they don't require single family residences to receive a Use Permit for any reason and the decision was made to try to make our code more compliant with FHA requirements and that was the reason why it was taken out.

COMMISSIONER CUNNINGHAM said she has to disagree with Vice Chairman Pridemore on this as it did not seem like it had been rushed to her. This came to their attention on this Board in June. That is 5 months that they have known this was coming. She wished they would have seen something in this format 2 or 3 weeks ago but she doesn't think it would have changed the format and she doesn't think it would have changed what was presented to them had it come here sooner. For one she is surprised it came through in 5 months but she is encouraged to know that some kind of government can get something done in 5 months whether it is just an ordinance or not. She commended Staff for their efforts on this.

CHAIRMAN VEITCH said they have a motion on the floor to continue the matter to their next meeting on November 20 in order to give it some additional vetting.

COMMISSIONER DONALDSON said the Chairman summarized his comments which were that he believes the language, he believes the scope, the timing he is used to more notice and more information earlier, but he doesn't believe that would have changed the product they have in front of them.

CHAIRMAN VEITCH took a vote on the motion to continue. The motion failed 2-4 (Cunningham, Donaldson, Veitch, Wastchak were opposed to the continuance). He said the floor was open for another motion.

MOVED BY COMMISSIONER CUNNINGHAM, seconded by **COMMISSIONER DONALDSON** to approve Item ZCA13-0002 GROUP HOMES ZONING CODE AMENDMENT. The item passed 4-2 (Vice Chairman Pridemore and Commissioner Baron were opposed).

CHAIRMAN VEITCH said that means that a positive recommendation will be forwarded to the City Council.

6. DIRECTOR'S REPORT

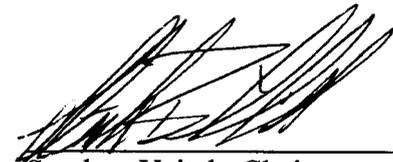
Mr. Kevin Mayo, Planning Manager, said there was nothing to report this evening.

7. CHAIRMAN'S ANNOUNCEMENTS

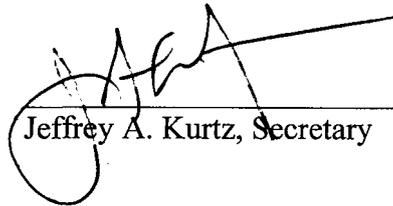
CHAIRMAN VEITCH said the next regular meeting is November 20, 2013 at 5:30 p.m. in the Council Chambers at the Chandler City Hall, 88 East Chicago Street, Chandler, Arizona.

8. ADJOURNMENT

The meeting was adjourned at 7:21 p.m.



Stephen Veitch, Chairman



Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, November 20, 2013 held in the City Council Chambers, 88 E. Chicago Street.

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

Chairman Stephen Veitch
Vice Chairman Matthew Pridemore
Commissioner Andrew Baron
Commissioner Katy Cunningham
Commissioner Bill Donaldson
Commissioner Phil Ryan
Commissioner Devan Wastchak

Also present:

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

4. APPROVAL OF MINUTES
MOVED BY VICE CHAIRMAN PRIDEMORE, seconded by COMMISSIONER CUNNINGHAM to approve the minutes of the November 6, 2013 Planning Commission Hearing. The motion passed 6-0 with 1 abstention (Commissioner Ryan was not at the meeting).
5. ACTION AGENDA ITEMS
CHAIRMAN VEITCH informed the audience that prior to the meeting Commission and Staff met in a Study Session to discuss each of the items on the agenda and the consent agenda will be approved by a single vote. After Staff reads the consent agenda into the record, the audience will have the opportunity to pull any of the items for discussion. There were no action items.

A. DVR13-0004/PPT13-0002 MAPLEWOOD COURT II

Approved.

Request rezoning from Agricultural (AG-1) to Planned Area Development (PAD) for single-family residential, Preliminary Development Plan (PDP) approval for housing product and subdivision layout, and Preliminary Plat approval of a 14-lot single-family residential subdivision. The subject site is located at the southwest corner of Willis Road and Vine Street. **(REQUEST CONTINUANCE TO THE DECEMBER 18, 2013 PLANNING COMMISSION HEARING.)**

B. PDP13-0010 WINCO FOODS STORE

Approved.

Request Preliminary Development Plan (PDP) approval for a new grocery store development. The property is located at the northwest corner of Arizona Avenue and Willis Road, on the west end of the San Tan Plaza commercial retail center.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "WINCO FOODS STORE", kept on file in the City of Chandler Planning Division, in File No. PDP13-0010, except as modified by condition herein.
2. Compliance with original conditions adopted by the City Council as Ordinance No. 3396 in case DVR02-0017 KOHL'S CENTER, except as modified by condition herein.
3. The landscaping shall be maintained at a level consistent with or better than at the time of planting. The site shall be maintained in a clean and orderly manner.
4. Raceway signage shall be prohibited within the development.
5. All parking planter islands to remain consistent with the islands within the adjacent Kohl's center.
6. **In the landscape tract west of the building adjacent to the five single family lots, install a second row of trees staggered with existing row of trees. The trees shall be placed every 20 feet on center with a minimum of 12 feet in height at time of planting. Trees shall match existing Mondell/Elderica Pine and Sissoo Tree.**

C. PDP13-0017 CHANDLER CORPORATE CENTER II

Approved.

Request Preliminary Development Plan (PDP) approval amending the conceptual site layout and maximum building height on approximately 17.25 acres located at the northwest corner of McClintock Drive and Galveston Street, within the Chandler Corporate Center business park.

1. Development shall be in substantial conformance with exhibits and representations entitled "CHANDLER CORPORATE CENTER II" kept on file in the City of Chandler Planning Services Division, in File No. PDP13-0017, except as modified by condition herein
2. Compliance with the original stipulations adopted by the City Council as Ordinance 1968, case Z88-018 CHANDLER CORPORATE CENTER, except as modified by condition herein.
3. Compliance with the original stipulations approved by the City Council as case PDP05-0009 CHANDLER CORPORATE CENTER, except as modified by condition herein.
4. Building heights in Phase One shall be limited to 30-feet in height, building heights in Phase Two shall be limited to 35-feet in height.

D. LUP13-0017 FIRED PIE

Approved.

Request Use Permit approval to sell liquor as permitted under a Series 12 Restaurant License for on-premise consumption both indoors and within an outdoor patio at an existing restaurant. The

property is located at 2855 W. Ray Road, Suite 5, at the southwest corner of Ray Road and Coronado Street.

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. The Use Permit is non-transferable to any other location.
3. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require a new Liquor Use Permit application and approval.
4. The site and outdoor patio shall be maintained in a clean and orderly manner.
5. Music shall be controlled so as to not unreasonably disturb area residents.

E. MOTION TO CANCEL THE DECEMBER 4, 2013 PLANNING COMMISSION HEARING.

Approved.

CHAIRMAN VEITCH said he had a speaker slip from Mr. Jim Balonis of Nebraska Place and he thinks his interest was in perhaps making a comment for the record concerning Item B. Mr. Balonis said he was o.k. with Item B after hearing the added stipulation that Ms. Novak, Senior City Planner, read into the record. The Chairman thanked him.

MOVED BY VICE CHAIRMAN PRIDEMORE, seconded by **COMMISSIONER RYAN** to approve the Consent Agenda as read into the record by Staff with the additional stipulation concerning Item B. The Consent Agenda passed 7-0.

6. DIRECTOR'S REPORT

Mr. Kevin Mayo, Planning Manager, said there was nothing to report this evening. Mr. Mayo wished the Commission a Happy Thanksgiving.

7. CHAIRMAN'S ANNOUNCEMENTS

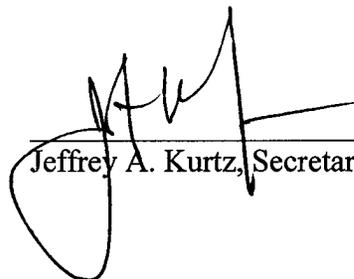
CHAIRMAN VEITCH said the next regular meeting is December 18, 2013 at 5:30 p.m. in the Council Chambers at the Chandler City Hall, 88 East Chicago Street, Chandler, Arizona.

8. ADJOURNMENT

The meeting was adjourned at 5:43 p.m.



Stephen Veitch, Chairman



Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, December 18, 2013 held in the City Council Chambers, 88 E. Chicago Street.

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

Chairman Stephen Veitch
Vice Chairman Matthew Pridemore
Commissioner Katy Cunningham
Commissioner Bill Donaldson
Commissioner Phil Ryan
Commissioner Devan Wastchak

Absent and excused: Commissioner Andrew Baron

Also present:

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

4. APPROVAL OF MINUTES
MOVED BY VICE CHAIRMAN PRIDEMORE, seconded by COMMISSIONER CUNNINGHAM to approve the minutes of the November 20, 2013 Planning Commission Hearing. The motion passed 6-0 (Commissioner Baron was absent).
5. ACTION AGENDA ITEMS
CHAIRMAN VEITCH informed the audience that prior to the meeting Commission and Staff met in a Study Session to discuss each of the items on the agenda and the consent agenda will be approved by a single vote. After Staff reads the consent agenda into the record, the audience will have the opportunity to pull any of the items for discussion. There were no action items.

A. DVR13-0004/PPT13-0002 MAPLEWOOD COURT II

Approved.

Request rezoning from Agricultural (AG-1) to Planned Area Development (PAD) for single-family residential, Preliminary Development Plan (PDP) approval for housing product and subdivision layout, and Preliminary Plat approval of a 14-lot single-family residential subdivision. The subject site is located at the southwest corner of Willis Road and Vine Street.

Rezoning

1. Development shall be in substantial conformance with the Development Booklet, entitled "MAPLEWOOD COURT II", kept on file in the City of Chandler Planning Services Division, in File No. DVR13-0004, 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. 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. 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 shall be maintained by the adjacent property owner or a homeowners' association.
8. Approval by the Director of Transportation 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.
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 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.

Preliminary Development Plan

1. Development shall be in substantial conformance with the Development Booklet, entitled "MAPLEWOOD COURT II", kept on file in the City of Chandler Transportation & Development Services Department, Planning Division, in File No. DVR13-0004, except as modified by condition herein.
2. No more than two identical side-by-side roof slopes should be constructed along arterial or collector streets or public open space.

3. The same floor plan and elevation shall not be built side-by-side or directly across the street from one another.
4. Preliminary Development Plan 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 Preliminary Development Plan shall apply.

Preliminary Plat

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

B. DVR13-0020 CHANDLER CREEK LP

Approved.

Request action on the existing Planned Area Development (PAD) zoning to extend the conditional schedule for development, remove, or determine compliance with the three year schedule for development or to cause the property to revert to the former Agricultural District (AG-1) zoning. The existing PAD zoning allows industrial uses. The property is located at the northeast corner of Queen Creek Road and the Union Pacific railroad tracks just east of Arizona Avenue.

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

C. DVR13-0028/PPT13-0017 OCOTILLO LANDING

Approved.

Request rezoning from Agricultural (AG-1) to Planned Area Development (PAD) for single-family residential, with Preliminary Development Plan approval for housing product and subdivision layout, and Preliminary Plat approval for a 62-lot single-family residential subdivision on approximately 19 acres. The subject site is located south of the southwest corner of McQueen and Ocotillo roads, at the Brooks Farm Road alignment.

Rezoning

1. Development shall be in substantial conformance with the Development Booklet, entitled "OCOTILLO LANDING", kept on file in the City of Chandler Planning Division, in File No. DVR13-0028, 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 homeowners' association.
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. 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. 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.
9. Approval by the Director of Transportation & Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Transportation & Development for arterial street median landscaping.
10. 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.

Preliminary Development Plan

1. Development shall be in substantial conformance with the Development Booklet, entitled "OCOTILLO LANDING", kept on file in the City of Chandler Planning Division, in File No. DVR13-0028, except as modified by condition herein.
2. The same floor plan and elevation shall not be built side-by-side or directly across the street from one another.
3. For lots adjacent to an arterial street, two-story homes are limited to every third lot, with no more than two, two-story homes built side-by-side.
4. Two-story homes shall be prohibited on lots 1-19.
5. For lots 21-38 lots shall be restricted to single-story homes when adjacent to single-story homes located within the McQueen Lakes subdivision.
6. Preliminary Development Plan 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 Preliminary Development Plan shall apply.
7. The side yard setbacks shall be a minimum of 5 feet and 10 feet, for those lots adjacent to McQueen Road side setbacks shall be 10 feet.
8. The applicant shall work with Planning Staff to incorporate additional architectural elements to the side and rear elevations of the homes.

Preliminary Plat

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

D. DVR13-0046 BELMONT ESTATES – NORTH 17' STRIP

Approved.

Request rezoning from Agricultural (AG-1) to Planned Area Development (PAD) for single-family residential as part of the Belmont Estates single-family residential subdivision. The subject site is located north of the northwest corner of Gilbert Road and Sunrise Place.

Rezoning

1. Compliance with original conditions adopted by the City Council as Ordinance No.4401 in case DVR12-0016 BELMONT ESTATES.

E. LUP13-0018 WALMART STORE

Approved.

Request Use Permit approval to allow the sale of all spirituous liquor as permitted under a Series 9 Liquor Store License for off-premise consumption. The store will be located at 3460 West Chandler Boulevard, northwest corner of Metro and Chandler boulevards.

1. The Use Permit granted is for a Series 9 license only, and any change of license shall require reapplication and new Use Permit approval.
2. The Use Permit is non-transferable to any other location.
3. 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.
4. The site shall be maintained in a clean and orderly manner.

F. PPT13-0005 STAYBRIDGE SUITES HOTEL

Approved.

Request Preliminary Plat approval for a hotel located at the northeast corner of Chandler Boulevard and McClintock Drive.

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

G. PPT13-0008 CIRCLE K RIGGS ROAD & ARIZONA AVENUE

Approved.

Request Preliminary Plat approval for a commercial center that includes a fuel station and a convenience store located at the southeast corner of Arizona Avenue and Riggs Road.

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

H. PPT13-0028 GARDENS AT OCOTILLO

Approved.

Request Preliminary Plat approval for an assisted living care center located at 1500 NW Jacaranda Parkway; southeast corner of Queen Creek Road and Pennington Drive.

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

TERRY SRAMEK, 625 W. WILLIS ROAD, stated he wanted to make a comment. He said he is opposed to changing the zoning from AG-1 to the PAD because he would prefer the rural atmosphere with people being able to have horses and maybe cows or chickens if they want it. He also prefers the Eden Estates type layout which is south of Maplewood II. He believes they have ½ acre lots in that area. He is not crazy about this PAD.

MOVED BY VICE CHAIRMAN PRIDEMORE, seconded by **COMMISSIONER RYAN** to approve the Consent Agenda as read into the record by Staff. The Consent Agenda passed 6-0 (Commissioner Baron was absent).

6. DIRECTOR'S REPORT

Mr. Kevin Mayo, Planning Manager, said this is their last Planning Commission hearing for 2013 and he wanted to wish the Commission a happy holiday and a happy safe New Year. He thanked them for their service this year of 2013 and is looking forward to 2014.

7. CHAIRMAN'S ANNOUNCEMENTS

CHAIRMAN VEITCH said the next regular meeting is January 15, 2014 at 5:30 p.m. in the Council Chambers at the Chandler City Hall, 88 East Chicago Street, Chandler, Arizona.

8. ADJOURNMENT

The meeting was adjourned at 5:51 p.m.



Stephen Veitch, Chairman



Jeffrey A. Kurtz, Secretary