

Revised

CITY COUNCIL FOR THE CITY OF CRYSTAL CITY, MISSOURI

FINDINGS, CONCLUSIONS AND APPROVAL BY THE CITY COUNCIL OF THE CITY OF CRYSTAL CITY, MISSOURI, OF THE CONDITIONAL USE PERMIT APPLICATION OF WINGS ENTERPRISES, INC.

SUMMARY:

Section 9(E) of the City's Ordinances sets forth the process in by which the Council evaluates a application for a conditional use permit. First, the Planning & Zoning Commission (the "Commission") upon submission of an application by the City Building Commissioner shall "review, consider and prepare a written report, recommending approval, revisions or denial [of the conditional use permit application] to the City Council." Second, the City Council is required to hold a public hearing, "consider all factors related to the request and subject to any protective restrictions, approve or deny the application."

The Commission received a Conditional Use Permit Application from Wing Enterprises, Inc. ("Wings") which was delivered to the Commission by the City's Building Commissioner. The Application consisted of the Application for Special Permit, a Site Plan, and a Site Development Plan Presentation, all of which were introduced into the record at the City Council's public hearing on March 2, 2009 as part of Exhibit 21. The Application is for the purpose of building an iron ore reduction facility on the former PPG Property, which is owned by the City (the "Project"). Pursuant to the Commission's Written Report, the Commission conducted four (4) public meetings and approved the Conditional Use Permit Application filed by Wings Enterprises (the "Application") subject to certain conditions as set forth in the Written Report. The Written Report was delivered to Mayor Thomas V. Schilly (the "Mayor") on February 23, 2009, (the "Written Report") and the Mayor presented the Written Report to the Council at the Council Meeting held on the same date.

In accordance with City Ordinances, this Council held a public hearing on March 2, 2009. After reviewing the process set forth in the Ordinances, all of which were admitted into the record of the public hearing as Exhibit 3 and the City Attorney's report admitted into the record as Exhibit 15, it is this Council's determination that all the appropriate and legally required procedures were followed by the Commission and the Council in issuing the Findings and Conclusions set forth below.

FINDINGS AND CONCLUSIONS:

Section 9(E)(2) of the ordinances of the City of Crystal City, Missouri, provide that, in considering whether a Conditional Use Permit Application is to be granted, it is the duty of the Council to:

give consideration to the effect of the requested use on health, safety, morals and general welfare of the residents in the area in the vicinity of the property in question, and the residence of the City generally, including the effect on:

- (a) Traffic in the streets;
- (b) Fire hazard;
- (c) Overcrowding of land or undue concentration of people;
- (d) Fire, police and utility services.
- (e) Municipal expenditures;
- (f) The character of the district, and the property values in the area; and,
- (g) The general suitability of the property in question for the proposed use.

Based on the record and evidence presented at the public hearing on March 2, 2009, the Council finds there is substantial and competent evidence to grant the Application subject to certain conditions set forth below. Further, the Council is persuaded by the findings and conclusions of the Commission in its Written Report and adopts and incorporates such Written Report into the Findings of Fact and Conclusions of this Council subject to the additional findings, conclusions and conditions as hereafter set forth in further detail below:

(a) Traffic in the Streets: Wings has acknowledged the potential for substantial truck traffic during the construction phase of the project particularly on Bailey Rd. and the City streets adjoining the subject property. It is further represented by Wings that it would anticipate two (2) trucks per day after the facility became operational. A condition to such application shall provide that the Applicant will be required to remove all dust, sand, mud, dirt, litter, garbage, debris or waste material from any street, road or highway adjacent to or abutting the facility during the construction period which is attributable to Wings' development of the Project within forty-eight (48) hours after notice to remove the same is given by the City. Further, so as to minimize "tracking" on City streets, all roads, access driveways, and parking areas utilized by Wings for the Project, whether or not on the premises leased to Wings by the City, during the construction phase and thereafter shall be either graveled or paved prior to any excavation or topsoil stripping on the site in order to prevent sediment from being tracked onto public and private roadways. Additionally, any "mud tracking" reaching a public street shall be removed by wet-scrubber street cleaning (not flushing) before the end of each workday. In addition, Wings will be required to establish and operate a "wash out station" for all vehicles entering or exiting the Property which may soil the City's roads during the construction phase of the project.

Further, the City's Street Superintendent prepared a written report regarding the impact the proposed use would have on Bailey Road and Mississippi Avenue which was introduced into the record as an attachment to Exhibit 21. Based on the Superintendent's findings, a fully operational plant will not have a negative effect on the Street Department. In addition, the Superintendent found that Bailey Road is capable of handling the increased traffic flow and is adequate to handle the contemplated weight capacities of a fully-operational facility.

A written report by the City Engineer, Carl Vogt, regarding the increased traffic on the City's streets due to the number of production workers expected to be present at the facility was also introduced into the record as an attachment to Exhibit 21. Based on this report, the City's Engineer found that the increased volume of vehicles is not expected to stress the traffic on the City's streets and will cause minimal, if any, traffic jams or resident inconvenience. In addition, as provided by the City Engineer, a condition to this granting of the permit shall be that "hard surface parking" shall be available on site for all employees and visitors of the facility. Hard surface parking shall include any porous or non-porous surface suitable for the function of driving and parking of vehicles. Permitted types of non-porous surfaces include asphalt and concrete surfaces. Permitted porous surfaces include a parking surface constructed of materials that permit water to enter the ground by virtue of their nature or by large spaces in the material, such as pre-cast and mold in place concrete blocks, concrete grids, interlocking bricks, and plastic mats with hollow rings, hexagonal cells or porous concrete. All employee and visitor parking shall be on-site at the facility and not on the City's streets or adjacent properties.

Based on these reports and the evidence presented at the public hearing, the Council finds that the City's streets are adequate to accommodate the increased traffic flow and the weight capacities of such traffic of a fully operational facility.

(b) Fire Hazards: The record and evidence presented at the public hearing contains two reports from the City's Fire Department, which were incorporated into Exhibit 21.

As compiled by the City's Fire Chief, the Council provides that the following restrictions are conditions to the granting of this Application:

i. At Wings' sole cost and expense, Wings shall provide for training to the City's Fire Department and surrounding company mutual-aid departments two (2) times per year regarding any dangerous materials or substances present on the site, as well as fire procedures for each structure, process, equipment or machinery erected or maintained on the property. A material or substance shall be considered dangerous when its Material Safety Data Sheet (MSDS) requires labeling for Health, Flammability, or Instability, greater than two (2); or "RED" required personnel protection (per OSHA and MSHA guidelines).

ii. Each building located on or within the facility shall be conspicuously numbered or lettered on the outside of each building for the purposes of identification by the responding department in emergency situations;

iii. Shall the same not be required by and State or federal law or any State or federal agency, Wings shall perform routine fire drills or emergency evacuations of the facility at least two (2) times per year;

iv. Upon notification to Wings by the Council, Wings shall reimburse the City within thirty (30) days for any supplies, tools or equipment the City purchases on behalf of the Fire Department that it deemed uniquely necessary to provide emergency services for the Wings facility and not otherwise needed for other properties in Crystal City as stipulated in the National Fire Protection Association (NFPA), Technical Bulletin 1600 requirements; up to Fifty Thousand Dollars (\$50,000.00) per year.

In addition, this Council is persuaded by the report of the City's Fire Chief in that the Fire Chief believes the facility as proposed would not impose any additional strain on the City's Fire Department and the services it currently provides. Thus, based on the recommendation of the City's Fire Chief, the Council attaches all of the above conditions to the granting of the Application.

Further, shall the same not be required by any permitting process or federal or State laws, Wings shall formulate and adopt an Emergency Management Plan for all foreseeable emergencies that may occur during construction and permanent use and operation. Such Plans shall be approved by the Jefferson County -- Local Emergency Planning Commission (LEPC) prior to issuance of a Building Permit for construction activities; and prior to the issuance of a Certificate of Occupancy for permanent use and operation of the completed facilities. Such Emergency Management Plan shall be provided to the City and its Fire and Police Departments after its approval by the LEPC. Such Plan shall include but not be limited to, the procedures for responding to medical emergencies and any and all production related emergencies.

(c) **Overcrowding of Land or Undue Concentration of People:** The Council does not find there to be any potential for either the overcrowding of land or undue concentration of people because of the Project.

(d) **Fire, Police and Utility Service:** The Council is persuaded by the reports prepared by the City's Fire Department, Police Department, and Water Superintendent, all of which were admitted into the record at the public hearing as part of Exhibit 21.

As established by the record, the Chief of Police has reported that the City currently has the resources to address any anticipated increase in criminal activity due to the proposed facility and that no additional expenses for supplies or personnel would be contemplated at this time.

Also, it is the finding of the Water Superintendent and the City's Engineer that the proposed use would not have any negative impacts on the City's water and sewer treatment systems, subject to the condition that no water used in processing of iron ore is emitted into the City's water and sewer treatment plants. Further, both the officials have found that the City's sewer and water treatment plants are more than adequate to handle the increased activity due to the development of this facility.

Fire Department concerns are further addressed above in subparagraph (b).

Thus, the Council finds that the proposed use would not have a negative impact on the City's Police Department or the Water Department. Further, the Council incorporates the

recommendations of the City's Fire Department as set forth in subparagraph (b) into this section.

(c) **Municipal Expenditures:** The potential impact on municipal expenditures of this facility as proposed is a potential increase in expenditures for police personnel and equipment, fire personnel and equipment, street maintenance and repair. All of these issues have been previously addressed in this report.

Further, the City Clerk prepared a report on the effect the proposed use would have on the City's administration and personnel. Such report was admitted into the record of the public hearing as part of Exhibit 21 and is incorporated herein by reference. Based on this report, the Clerk has determined that the City's administration would spend a nominal amount of time on a monthly basis to complete ministerial duties in connection with the proposed use. In addition, the Clerk has determined that no negative effects from the facility are anticipated on the City's administration and office personnel.

Thus, the Council finds that an increase in municipal expenditures, if any, would be minimal as a result of the proposed use and would not negatively impact the City.

(f) **Character of the District and the Property Values in the Area:** The proposed facility is located in a M-2 General Industrial District, the permissive uses of which specifically prohibit residences. The location of the proposed facility has been historically a heavy industrial manufacturing plant (from the 1880's through the early 1990's) around which the City was developed. As a result, the proposed facility would be well within the character of the zoning district.

As to property values in the area, there is no information to suggest to the Council that the construction of the proposed facility would have any direct adverse effect on residential property values or increase residential property values in areas adjoining or in close proximity to the proposed facility.

(g) **General Suitability of the Property in Question for the Proposed Use:** As previously stated, the property in question is zoned "M-2 General Industrial", such being reflective of not only the historical use of the property but also the uses to which it is now limited by virtue of the "restrictive covenants" which have been imposed on the site by the Missouri Department of Natural Resources. Further, the site has optimal suitability for an industrial use, it having river frontage upon which barge loading/unloading facilities could be constructed, as well as being a juncture for two (2) major railroads.

Additional Proposed Conditions and Reaction to Public Comments:

As stated above, the Council has adopted and incorporated into this Findings of Fact and Conclusions the Commission's Written Report, with certain changes and additions. Notwithstanding any additional conditions set forth above, below are the Council's additional conditions which shall be applicable to the grant of this permit:

A. **Landscaping Plan.** With regard to visual and noise aesthetics, a condition to the grant of this permit is the establishment of a "Landscaping Plan" formulated by Wings, or by and through an agent or representative of Wing's with the background and experience in

industrial landscaping. Such Plan shall incorporate “aesthetic barriers” for entryway corridors into the facility, between any railroad tracks on the premises leased to Wings by the City and residences (which would specifically include along the Western boundary of the 8.56 acre railroad right of way lying East of Mississippi Avenue up to the Southern boundary of Fifth Street subject to limitations imposed by rules, regulations or property rights of the railroad), as well as along the western boundary of the 99-acre parcel, essentially south from the BNSF right-of-way to Hickey White Park. Such entryway corridors shall be landscaped with aesthetic barriers as further described below extending seventy-five (75) yards from the entrance point to the facility from any City Street onto the former PPG property. An aesthetic barrier also should be required for any outdoor storage if it is visible from or within 1000 feet of any residence, school, church, public park, recreational facility, or public library within the corporate limits of Crystal City. Such an aesthetic barrier would have a minimum height of six (6’) feet with such screening to be by landscaped earthen berm or an opaque fence, at least six (6’) feet in height but not more than eight (8’) feet in height, with shrubs or other vegetative material planted and maintained by Wings. The Plan shall be provided to and approved by the City Council prior to the installation of any barriers or berms as mentioned above and all costs in the formulating, installing and maintaining such Plan shall be borne by Wings. However, approval of the Landscaping Plan shall not be unreasonably withheld by the Council.

B. Perimeter Fence Line. In addition to the Landscaping Plan as set forth above, Wings, shall re-establish, replace or repair (if repair is deemed feasible by the third party installing or repairing such fence line) the existing perimeter security fence with a fence of similar type and manner as shall be typical in the industry. The fence shall be of a type and manner to serve the purpose of additional protection and security around the facility and create a buffer between the facility and the residential and other commercial areas of the City. Prior to any such installation or repair, Wings shall provide the City Council a proposed plan for the Council’s review and approval. Such approval of the proposed plan shall not be unreasonably withheld by the Council. However, due to the pending litigation in the Twenty Third Judicial Circuit, Jefferson County, Missouri, styled, *Fiesta Corporation, Plaintiff v. PPG Industries, et al., Defendants*, Cause No. 07JE-CC01091, such interior fence line running from Crystal Avenue to the western bank of the Plattin Creek shall not be disturbed, repaired or removed unless permission is granted by the Circuit Court, Jefferson County, Missouri, or such litigation has resulted in a final judgment.

C. Bicycle Plan. Wings should provide ample parking and access for workers and employees of the facility that travel or commute by bicycle. This shall include the placement of bike racks and designated bike routes or areas that are otherwise available for bicycle access and transportation. Details showing the facilities included for workers and employees of the facility that travel or commute by bicycle shall be part of the construction documents submitted with the Building Permit application and approved by the Building Commissioner.

D. No Lead. Notwithstanding any other provision contained in the Lease Agreement and any amendments executed thereto between the City and Wings, Wings shall be prohibited from processing, smelting, extracting, distributing, loading/unloading and shipping lead ore or lead ore concentrate.

E. “Smoke Stacks”. Wings shall be prohibited from constructing, building, and maintaining and industrial-type “smoke stack”, flue stack or any other industrial chimney or

similar device. Wings shall be further prohibited from constructing, building or maintaining an exhaust system or venting system that is taller than twenty-five percent (25%) of the height of the production building the system serves. This condition shall not be construed so as to affect the height of storage buildings or any production building within the facility.

F. Noise Emitted From the Site. Issues have been raised by public comment regarding noise being emitted from the site. It is the opinion of the Council that a condition to this Application shall be restrictions on noise emitted from the site during normal operation of the facility. Such condition should provide that any noise emitted from the facility while during normal operation shall not exceed 80 DBA as measured at the lot line of the effected property within the corporate limits of Crystal City. Such determination shall be made by a "L10" level by making fifty (50) observations on the A-weight Network with the sound-level meter at slow response at 10 second intervals. During any of these observations, if a measurement is substantially affected by a source outside of the facility site, these measurements will not be considered. Observations will be continued until fifty (50) valid observations have been recorded. The "L10 Level" will be equivalent to the 10th highest level recorded. Any such testing may also be performed by other reasonable methods consistent with standards in the industry for testing industrial noise emittance. The City may, at its own option and expense, hire a third party to conduct such testing and reporting or authorize the purchase of such equipment as may be necessary to perform such testing by an official or employee of the City.

G. Soil and Water Testing. Shall the same not be required by any federal or Missouri Law or by any federal or State agency, including the Missouri Department of Natural Resources and the Environmental Protection Agency, Wings shall employ a third party with experience in industrial soil, water and land pollution testing and detection to perform annual testing on the property to determine compliance with the restrictions so placed on the property by the Missouri Department of Natural Resources and whether any new contaminates have been emitted on the property. All such test results shall be provided to the City within ten (10) days of receiving the results of such report and testing.

H. Permits and Release of Documentation. Wings shall obtain all necessary environmental, building or other applicable permits prior to operation of the facility. Further, Wings shall provide the City with all documentation and information relating in any way to such permits prior to operation of the facility. Such documentation shall not be provided to the City for approval, but rather for informational and educational purposes.

I. Prohibition on Fill Material. Wings shall not transfer or move any fill material on or through the City's street without first receiving prior approval from the Building Commissioner. Before approval is granted by the Building Commissioner, Wings shall submit a plan for moving or transferring such fill, which shall include but not be limited to, the expected weight capacity of each vehicle transporting such fill through the City, the number of vehicles carrying such fill and the duration of the fill operation. The Building Commissioner shall provide such plan or report to the Council as soon as practicable for the Council's review, although approval by the Council is not required.

J. Barge Dock. It has been represented to the Council by the Applicant that any barge port or dock constructed on the property would be limited to Wings private use for purposes of furthering the project as proposed. As a result, a condition to the permit shall

be, except as otherwise provided by the Lease Agreement and the amendments executed thereto by the City and Wings, that any barge dock, port, or other loading/unloading facility so built on the property, shall be limited to the sole use of Wings for products and materials associated with the proposed iron ore reduction facility and maintenance of the same.

K. Air Emissions. Evidence was presented at the public hearing regarding air emissions. The Council finds that Section 643.140.1 RSMo specifically provides that Missouri's Air Conservation Law does not preempt cities or counties from enacting and enforcing ordinances with respect to air pollution. However, such ordinances must be "consistent with" the Air Conservation Law. The Missouri Legislature amended the Air Conservation Law approximately eight (8) years ago to add a restriction prohibiting legislative regulations which are stricter than federal regulations and is commonly referred to as the "no stricter than" rule. The "Clean Air Act", a federal statute, with accompanying regulations promulgated by the Environmental Protection Agency, governs the entire field of air pollution. Pursuant thereto, if the federal statute or regulations contain limitations, then those limitations will be binding on the City, and neither the City nor the Missouri Department of Natural Resources may impose stricter limitations. Presently, federal statute and regulations do not regulate CO₂ and, accordingly, any action by the City to impose such regulations would be considered "stricter than" the federal regulations and, accordingly, the City is precluded from attempting to regulate CO₂ in any manner.

Further, as a third-class city, the City is not authorized by State statute to enact or enforce ordinances or orders under the provisions of Section 643.140 RSMo. Accordingly, it is the opinion of the Council, based on the Commission's Written Report, that all matters pertaining to air emissions must be addressed during the permitting process by the applicant with the Missouri DNR and the Federal EPA.

L. "Running with the Land" and Time Limitation. A question also has been raised as to whether a "Conditional Use Permit" "runs with" the land or with the applicant. It is the opinion of the Council, as found by the Commission in its Report, that a "Conditional Use Permit" designates a type of administrative permission by the City which allows a property owner to put its property to a use which the City zoning ordinances expressly permit under conditions specified in the zoning regulations themselves. Such a permit is regarded by Missouri law as personal to the landowner to whom it is granted. That is, the mere issuance of a Conditional Use Permit gives no vested rights to the permittee, nor does the permittee acquire a property right in the permit. However, a permittee does acquire a property or vested right where it has acted on the faith of the permit. Construction represents an investment in the improvement of the land upon which it was erected. If regard was not had by the Council for the reasonable protection of such investments, then a zoning ordinance would be "confiscatory" with respect to such construction. Accordingly, it is the opinion of this Council, based on the findings of the Commission in its Written Report, that, upon the granting of a Conditional Use Permit to Wings, Wings would acquire a property or vested right when acting in good faith upon the permit, it proceeded with construction on the property. Therefore, at that time, Wings would have a vested right in the continued operation of the improvements constructed, which would run with the land and, consequently, to a subsequent tenant or property owner.

Further, Missouri law also allows a "Conditional Use Permit" to be transferrable from one party to another where the permit itself expressly contemplates such transferability, such

as herein. Issues also have been raised as to whether a “time-limit” condition can be imposed upon the granting of the Conditional Use Permit. It is the opinion of the Commission that Missouri law allows a “time limit” to be placed upon a Conditional Use Permit only if such is specifically allowed by the relevant city ordinance. The ordinances of the City do not contain an explicit provision to establish a time period on the Conditional Use Permit and, therefore, such a limitation is not a matter within the discretion of the City to impose.

M. Train Regulation. An issue also has been raised regarding the blockage of City streets at train crossings by trains of a certain length. It is the opinion of the Council, as found by the Commission in its Report, that any condition upon the length or speed of a train, or the obstruction of a railroad-street grade crossing for a particular elective time is preempted by the Federal Railroad Safety Authorization Act of 1994 (FRSA), 49 U.S.C. Section 20101 et. seq. (2000). Therefore, any such condition would be, in the opinion of the Council, in violation of this Federal law.

Except as may be preempted or prohibited by any federal or state law, including any regulatory agency rules and regulations, rail cars to be loaded or unloaded by Wings shall be delivered and removed as a unit train, and moved on site for loading and unloading, utilizing a rail car indexer and not by train engine.

N. No Storage of Scrap Iron. Wings shall be prohibited from processing or storing “scrap iron” on or under any part of the premises leased from the City. For the purposes of this section, “scrap iron” shall be defined as salvaged or discarded metal materials from previously finished goods. However, nothing in this section shall prohibit Wings from reworking or forming any iron ore pellets processed on the site as part of the project.

O. Covered Cement Additive Material and Granular Material. It has been represented to the Council by the Applicant that “slag” or a cement additive material will be produced as a by-product of the iron ore reduction process and will be stored on the premises leased by the Applicant from the City. In addition, the Applicant has represented to the Council that petroleum coke is anticipated as the primary fuel for this reduction process. However, it was also acknowledged that coal coke could also be used in fueling the facility, but was not anticipated for this Project. In the interest of protecting the health, safety and general welfare of the City, Wings shall provide for covered storage of all “slag” or cement additive material that will be stored on the premises, as well as, covered storage for all coal coke, if any shall be used to fuel the iron ore reduction process and any granular material which may be stored on the premises.

P. No Processed Water Allowed in City’s Facilities. Wings shall not discharge any water into the City’s sewer or water treatment plants that has been used in any procedure or process for reducing iron ore as contemplated on the premises. However, nothing in this provision shall limit Wing’s ability to discharge any water into the City’s water and sewer treatment plants used in any bathroom or bathhouse facility or other water used on the site for other similar types of personal uses.

Q. Insurance. The issue has been raised concerning the amount of insurance Wings must carry in connection with the operation of the Project. The Council takes notice that the Lease Agreement and the Amendment executed thereto between the City and Wings provides that Wings shall maintain commercial general liability insurance for the mutual benefit of the

City and Wings against claims for all bodily injury or death and damage to property occurring upon, in or about and in connection with the use of the premises for the Project. Such insurance shall be maintained in an amount of not less than Five Million Dollars (\$5,000,000.00) in respect to bodily injury or death to any one person, of not less than Five Million Dollars (\$5,000,000.00) for any one accident, and of not less than Five Million Dollars (\$5,000,000.00) for property damage. In addition, Wings must provide for Two Million Dollars (\$2,000,000.00) of insurance coverage for any negligent act of the City for each of bodily injury, accident and property damage. After review of this provision and the evidence in the record, this Council finds that the insurance provision as provided in the Lease Agreement is adequate assurance for the City.

R. No Radioactive Minerals. Wings shall not transport, store, process, distribute, manufacture, load/unload or ship any radioactive minerals on or through any portion of the premises leased by Wings from the City nor shall Wings allow any third party, contractor or subcontractor to do the same.

S. Electric Induction Oven Technology. It has been represented by the Applicant that the technology to be used in connection of the iron ore reduction process will be by Electric Induction Ovens. In granting this permit, the Council is specifically relying on this representation and Wings shall be bound by such representation for the purposes of this Application. Notwithstanding anything to the contrary in the Lease Agreement between Wings and the City, shall Wings determine that such technology will not be used for the project, this permit shall terminate and its issuance shall be void.

T. Additional Ingress and Egress Access. Shall the same not be required by any federal or State law or federal or State agency, Wings shall provide for a minimum of two ingress and egress access points to and from the facility if determined as needed or appropriate by the necessary City Public Officials.

U. Coal Burning. Wings shall be strictly prohibited from operating, maintaining, constructing or otherwise utilizing a coal burning furnace on the premises leased by Wings from the City and shall not burn coal as fuel as any part of their operations.

V. Limit on Diesel Truck Idling. Wings and its affiliates, contractors, and subcontractors shall be prohibited from allowing any diesel fueled truck from idling on any City street for more than five (5) minutes.

W. Adoption of “Zoning Ordinance Compliance Analysis” and “Additional Non-Ordinance Concern Compliance”. In making its determination and the Findings of Fact and Conclusions contained in this report, the Council has specifically relied on the presentation made by the Applicant at the public hearing on March 2, 2009, and the “Zoning Ordinance Compliance Analysis” and the “Additional Non-Ordinance Concern Compliance” presented at such hearing contained in the bound written report entered into the record by the Applicant as Exhibit 27. As conditions to the granting of this permit, the Council incorporates each and every representation made in both compliance analysis provisions of the March 2, 2009, report by the Applicant as conditions to the granting of this Permit.

CONCLUSION

After review of the record and evidence presented at the public hearing this Council finds that there is substantial and competent evidence to **APPROVE** the Conditional Use Permit Application filed by Wings Enterprises, Inc. for the proposed use subject to the conditions and recommendations as set forth above in more detail.

Thomas V. Schilly, Mayor

CITY OF CRYSTAL CITY

ATTEST:

City Clerk

AYES

NAYS

