

**TOWN OF GILBERT  
 PLANNING COMMISSION REGULAR MEETING  
 GILBERT MUNICIPAL CENTER, 50 E. CIVIC CENTER DRIVE, GILBERT ARIZONA  
 DECEMBER 4, 2013**

**COMMISSION PRESENT:**

**Chairman Jennifer Wittmann  
 Vice Chairman Joshua Oehler  
 Commissioner Brigette Peterson  
 Commissioner Anthony Bianchi  
 Commissioner Chad Fuller  
 Commissioner Kristofer Sippel  
 Commissioner David Cavenee  
 Alternate Commissioner Khyll Powell**

**COMMISSION ABSENT:**

None

**STAFF PRESENT:**

**Development Services Director Kyle Mieras  
 Planning Services Manager Linda Edwards  
 Principal Planner Catherine Lorbeer  
 Senior Planner Mike Milillo  
 Senior Planner Maria Cadavid  
 Senior Planner Al Ward  
 Planner Amy Temes  
 Planner Nathan Williams  
 Planner Curtis Neal**

**ALSO PRESENT:**

**Town Council Member Jenn Daniels  
 Town Attorney Phyllis Smiley  
 Recorder Margo Fry**

<b>PLANNER</b>	<b>CASE</b>	<b>PAGE</b>	<b>VOTE</b>
NATHAN WILLIAMS	UP13-18	3	APPROVED
MIKE MILILLO	Z13-31	3	APPROVED
AL WARD	UP13-20	3	CONTINUED
AMY TEMES	GP13-16	3	CONTINUED
AMY TEMES	Z13-27	3	CONTINUED
MIKE MILILLO	Z13-30	4	CONTINUED
MARIA CADAVID	Z13-12	4	CONTINUED
MIKE MILILLO	Z13-28	4	APPROVED
AMY TEMES	Z13-34	5	APPROVED
MIKE MILILLO	Z13-02	6	CONTINUED
AL WARD	UP13-19	19	APPROVED
AL WARD	Z13-33	23	APPROVED
AL WARD	GP13-07	35	APPROVED

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**CALL TO ORDER:**

Chairman Jennifer Wittmann called the meeting to order at 6:05 p.m.

**ROLL CALL**

Ms. Fry called roll and a quorum was determined to be present.

**APPROVAL OF AGENDA**

Chairman Wittmann asked if there were any changes to the agenda.

**A motion was made by Vice Chairman Joshua Oehler and seconded by Commissioner Brigitte Peterson to continue items 9, 10, 11 and 13 to the January 8, 2014 Planning Commission Regular Meeting and to move items 15 and 16 to the Consent Agenda.**

**Motion carried 7 – 0**

**COMMUNICATIONS FROM CITIZENS**

At this time members of the public can comment on items not on the agenda. The Commission's response is limited to responding to criticism, asking staff to review a matter commented upon or asking that the matter be put on a future agenda.

Chairman Wittmann asked if there was anyone present who wished to speak under those terms. There was no response.

**PUBLIC HEARING (CONSENT)**

Consent Public Hearing items will be heard at one Public Hearing. After the Consent Public Hearing, these items may be approved by a single motion. At the request of a member of the Commission or Staff, an item may be removed from the Consent Calendar and may be heard and acted upon separately. Other items on the agenda may be added to the Consent Public Hearing and approved under a single motion.

Larry Hyde came forward to speak regarding item 19.

Chairman Wittmann said that item 19, GP13-07 was on the agenda to be heard when they opened the Public Non-Consent Hearing. At the current time they were in the Consent portion of the agenda.

Commissioner Fuller commented that it may be helpful if they read what items were now on Consent. He asked if the items that were now on Consent were items 7, 8, 9, 10, 11, 12, 13, 15 and 16.

Chairman Wittmann said that was correct.

Chairman Wittmann announced the consent items which included item UP13-18, Z13-31, UP13-20, GP13-16, Z13-27, Z13-28, Z13-30, Z13-34.

Chairman Wittmann opened the public hearing and asked if there was any discussion. There was no discussion. Chairman Wittmann closed the public hearing and asked if there was a motion.

**A motion was made by Commissioner Chad Fuller and seconded by Commissioner Brigitte Peterson to approve the consent calendar as read by Chairman Wittmann.**

**Motion carried 7 – 0**

**UP13-18: VERIZON PHO BURK: REQUEST TO APPROVE A CONDITIONAL USE PERMIT FOR APPROXIMATELY 800 SQUARE FEET OF REAL PROPERTY LOCATED AT 1001 N. GILBERT ROAD, NORTH AND EAST OF THE NORTHEAST CORNER OF GILBERT ROAD AND GUADALUPE ROAD, TO PERMIT REPLACEMENT OF AN EXISTING WIRELESS COMMUNICATION FACILITY - (WCF) ANTENNA ARRAY ON AN EXISTING 65 FOOT HIGH MONOPALM IN THE GENERAL COMMERCIAL (GC) ZONING DISTRICT.**

Move to make the findings of fact and approve UP13-18, a Conditional Use Permit, to modify an existing Wireless Communication Facility - (WCF) antenna array on an existing 65 foot high monopalm located at 1001 N. Gilbert Road, north of the northeast corner Gilbert Road and Guadalupe Road in the General Commercial (GC) zoning district, subject to the following conditions

1. The Project shall be in substantial conformance with the site plan, and elevations/ details shown on the Exhibits noted under Attachment #4.
2. The WCF new antenna shall be colored/ painted to match the monopalm/ communications tower color.

**Z13-31: REQUEST TO AMEND THE TOWN OF GILBERT LAND DEVELOPMENT CODE, CHAPTER 1 ZONING REGULATIONS, DIVISION 2 LAND USE DESIGNATIONS, ARTICLE 2.4 HERITAGE VILLAGE CENTER ZONING DISTRICT, SECTION 2.402 LAND USE REGULATIONS, TABLE 2.402 LAND USE REGULATIONS - HERITAGE VILLAGE CENTER DISTRICT AND ARTICLE 2.8 GATEWAY DISTRICTS, SECTION 2.803 LAND USE REGULATIONS, TABLE 2.803 LAND USE REGULATIONS - GATEWAY DISTRICTS RELATED TO ADDING "COLLEGES, PUBLIC OR PRIVATE" TO THE LIST OF PERMITTED USES.**

For the following reasons: the proposed amendments will add to the diverse mixture of uses permitted in the HVC & GVC zoning districts, the Planning Commission moves to recommend approval to the Town Council for Z13-31, a request to amend the Town of Gilbert Land Development Code to add Colleges, Public or Private to the list of permitted uses in the HVC and GVC zoning districts.

**UP13-20 VERIZON: A CONDITIONAL USE PERMIT TO ALLOW A NEW MONO PALM WIRELESS COMMUNICATION FACILITY - WCF, ON 0.02 ACRES OF REAL PROPERTY, AT 1555 W WARNER ROAD, LOCATED AT THE SOUTHEAST CORNER OF MCQUEEN AND WARNER ROADS, IN SHOPPING CENTER (SC) ZONING DISTRICT WITH PLANNED AREA DEVELOPMENT (PAD) OVERLAY.**

Move To Continue UP13-20 To The January 8, 2014 Planning Commission Meeting.

**GP13-16: EPICENTER - MINOR GENERAL PLAN AMENDMENT TO CHANGE THE LAND USE CLASSIFICATION OF APPROXIMATELY 22.5 ACRES OF REAL PROPERTY GENERALLY LOCATED AT THE NORTHWEST CORNER OF HIGLEY AND RAY ROADS FROM GENERAL COMMERCIAL LAND USE CLASSIFICATION TO REGIONAL COMMERCIAL LAND USE CLASSIFICATION.**

Move to continue GP13-16 to January 8, 2014 Planning Commission Meeting.

**Z13-27 - EPICENTER - AMEND ORDINANCES NO.1305 AND 2364 AND REZONE APPROXIMATELY 22.5 ACRES OF REAL PROPERTY WITHIN THE AGRITOPIA PLANNED AREA DEVELOPMENT (PAD), GENERALLY LOCATED AT THE NORTHWEST CORNER OF HIGLEY AND RAY ROADS FROM APPROXIMATELY 22.5 ACRES OF GENERAL COMMERCIAL (GC) ZONING DISTRICT WITH A PLANNED AREA DEVELOPMENT**

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**OVERLAY ZONING DISTRICT TO APPROXIMATELY 22.5 ACRES OF REGIONAL COMMERCIAL (RC) ZONING DISTRICT WITH A PLANNED AREA DEVELOPMENT OVERLAY ZONING DISTRICT, AS SHOWN ON THE EXHIBIT (MAP), WHICH IS AVAILABLE FOR VIEWING IN THE PLANNING AND DEVELOPMENT SERVICES OFFICE, AND TO AMEND CONDITIONS OF DEVELOPMENT IN THE AGRITOPIA PLANNED AREA DEVELOPMENT (PAD) FOR THE REGIONAL COMMERCIAL ZONING DISTRICT AS FOLLOWS: INCREASE MAXIMUM BUILDING HEIGHT, DECREASE FRONT, SIDE, AND REAR BUILDING SETBACKS, DECREASE SEPARATION BETWEEN BUILDINGS, AND DECREASE FRONT, SIDE AND REAR PERIMETER LANDSCAPE AREAS.**

Move to continue GP13-16 to January 8, 2014 Planning Commission Meeting.

**Z13-30: FOWL REGULATIONS - REQUEST TO AMEND THE TOWN OF GILBERT LAND DEVELOPMENT CODE, CHAPTER 1 ZONING REGULATIONS, DIVISION 2 LAND USE DESIGNATIONS, ARTICLE 2.1 SINGLE FAMILY RESIDENTIAL DISTRICTS, SECTION 2.107 ADDITIONAL USE REGULATIONS, SUBSECTION A ANIMALS RELATED TO AMENDING THE REGULATIONS PERTAINING TO THE KEEPING OF FOWL IN RESIDENTIAL ZONING DISTRICTS.**

Move to continue Z13-30 To February 5, 2014 Planning Commission Meeting.

**Z13-12: REQUEST TO AMEND ORDINANCES NO. 1597 AND 1956 AND REZONE APPROXIMATELY 13.2 ACRES OF REAL PROPERTY WITHIN THE COPPER RANCH PLANNED AREA DEVELOPMENT (PAD), GENERALLY LOCATED SOUTH AND EAST OF THE SOUTHEAST CORNER OF WARNER AND RECKER ROADS FROM MULTI FAMILY-MEDIUM (MF/M) WITH A PLANNED AREA DEVELOPMENT (PAD) OVERLAY TO SINGLE FAMILY-DETACHED (SF-D) WITH A PLANNED AREA DEVELOPMENT (PAD) OVERLAY ZONING DISTRICT AND TO AMEND CONDITIONS OF DEVELOPMENT AS FOLLOWS: REDUCE LOT DIMENSIONS; DECREASE FRONT, SIDE AND REAR SETBACKS AND SEPARATION BETWEEN DWELLING UNITS; AND INCREASE THE MAXIMUM LOT COVERAGE FOR TWO-STORY UNITS.**

Move To Continue Z13-12 To January 8, 2014 Planning Commission Meeting.

**Z13-28: REQUEST TO AMEND ORDINANCE NOS. 1142, 1230, 2209 AND 2326, AND TO REMOVE APPROXIMATELY 14 ACRES OF REAL PROPERTY GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE SANTAN FREEWAY AND RAY ROAD FROM THE GILBERT CROSSROADS PLANNED AREA DEVELOPMENT (PAD) AND TO REZONE SAID REAL PROPERTY FROM TOWN OF GILBERT REGIONAL COMMERCIAL (RC) ZONING DISTRICT WITH A PLANNED AREA DEVELOPMENT (PAD) OVERLAY ZONING DISTRICT TO REGIONAL COMMERCIAL (RC) ZONING DISTRICT.**

For the following reasons: the development proposal conforms to the intent of the General Plan and can be coordinated with existing and planned development of the surrounding areas, and all required public notice and meetings have been held, the Planning Commission moves to recommend approval to the Town Council for Z13-28, a request to rezone approximately 14 acres of real property generally located at the southwest corner of the Santan Freeway and Ray Road from Town of Gilbert Regional Commercial (RC) Zoning District with a Planned Area Development (PAD) Overlay Zoning District to Regional Commercial (RC) Zoning District, subject to the following condition:

1. Developer shall create a Property Owner's Association (POA) for the ownership, maintenance, landscaping, improvements and preservation of all common areas and open space areas, and the landscaping within the rights-of-way.

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**Z13-34: BRIDGES PHASE 3 PARCEL 1: REQUEST TO AMEND ORDINANCE NOS. 1649, 1710, 2361, 2404, 2405, 2436 AND 2445 TO AMEND THE CONDITIONS OF DEVELOPMENT WITHIN THE BRIDGES EAST PLANNED AREA DEVELOPMENT (PAD) FOR APPROXIMATELY 26.34 ACRES OF REAL PROPERTY GENERALLY LOCATED SOUTHEAST OF THE SOUTHEAST CORNER OF HIGLEY AND QUEEN CREEK ROADS IN THE TOWN OF GILBERT SINGLE FAMILY - 7 (SF-7) ZONING DISTRICT WITH A PLANNED AREA DEVELOPMENT OVERLAY ZONING DISTRICT.**

For the following reasons: the development proposal conforms to the intent of the General Plan and can be coordinated with existing and planned development of the surrounding areas, and all required public notice and meetings have been held, the Planning Commission moves to recommend approval to the Town Council to amend development standards for 26.34 acres of real property generally located southeast of the southeast corner of Higley and Queen Creek Roads in the Town of Gilbert Single Family - 7 (SF-7) zoning district with a Planned Area Development overlay zoning district, subject to the following conditions:

1. The Development Plan shall be in substantial conformance with the Development Plan or as amended by conditions of approval.
2. Project shall be developed in conformance with the Town’s zoning requirements except as modified below:
  - a. Project shall be developed in conformance with the Town’s zoning requirements for the Single Family - 7, Single Family – 6 and Single Family – Detached and Public Facility Institutional zoning district, except as modified by these conditions. All single-family residential lots shall comply with the following standards:

<i>Zoning District*</i>	<i>Minimum Width/Depth</i>	<i>Minimum Lot Size</i>	<i>Max. Height Feet/Stories</i>	<i>Side Setbacks</i>	<i>CLEAR ZONE</i>
SF-7	70’ x 100’	7,000	30’/2		
SF-7 PHASE 3 PARCEL 1	PER LDC	PER LDC	PER LDC	7’ and 8’	3’
SF-6	55’ x 100’	6,000	30’/2		
SF-D (other than Phase 1, Parcel 1 and Phase 1 Parcel 3)	N/A	3,000	36/3		
SF-D/Z-lot	38’ x 100’	4,500	30’/2		
SF-D/Villa	38.5’ x 78’	3,003	30’/2		
SF-D Phase 1 Parcel 1	Per LDC	7,000	Per LDC		
SF-D Phase 1 Parcel 3	55’ X 110’	6,000	30’/2-Story		

- b. The maximum number of dwelling units shall be limited to the maximum allowed under the Gilbert General Plan.
- c. Developer shall create a new Homeowner’s Association (HOA) for the ownership, maintenance, landscaping, improvements and preservation of all common areas and open space areas and landscaping within the rights-of-way.

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- d. In order for Developer to develop and use the Property as it intends, several off-site improvements are required. All engineering plans and specifications for the improvements shall be approved by the Town Engineer prior to commencement of construction by developer. All improvements shall comply with the Town's design and warranty requirements and other requirement. The Town shall construct the following improvement and Developer shall reimburse the Town its pro rata share of those improvements upon notice from the Town: Ocotillo Road Improvements, Higley Road Improvements, Higley Road Bridge over Queen Creek Wash, the Ocotillo Road Twenty-inch Waterline Improvement and the Higley Road 16" Water Line Improvement.
  - 1) The developer shall satisfy all financial obligations pertaining to the Property as set forth in all applicable water and sewer buy-in agreements, whereby the developer shall pay for its proportional share of water and sewer mains prior to final plat approval.

#### **PUBLIC HEARING (NON-CONSENT)**

Non-Consent Public Hearing items will be heard at an individual public hearing and will be acted upon by the Commission by a separate motion. During the public hearings, anyone wishing to comment in support of or in opposition to a public hearing item may do so. If you wish to comment on a public hearing item you must fill out a public comment form, indicating the item number on which you wish to be heard. Once the hearing is closed, there will be no further public comment unless requested by a member of the commission.

**Z13-02: REQUEST TO AMEND THE TOWN OF GILBERT LAND DEVELOPMENT CODE, CHAPTER 1 ZONING REGULATIONS, DIVISION 2 LAND USE DESIGNATIONS, ARTICLE 2.1 SINGLE FAMILY RESIDENTIAL DISTRICTS, SECTION 2.103 LAND USE REGULATIONS, TABLE 2.103 LAND USE REGULATIONS - SINGLE FAMILY RESIDENTIAL DISTRICTS AND ARTICLE 2.2 MULTI-FAMILY RESIDENTIAL DISTRICTS, SECTION 2.203 LAND USE REGULATIONS, TABLE 2.203 LAND USE REGULATIONS - MULTI-FAMILY RESIDENTIAL DISTRICTS, RELATED TO PERMITTING RECOVERY RESIDENCES BY RIGHT IN SINGLE-FAMILY AND MULTI-FAMILY RESIDENTIAL ZONING DISTRICTS; AND TO AMEND DIVISION 4 GENERAL REGULATIONS, ARTICLE 4.5 SUPPLEMENTAL USE REGULATIONS, BY ADDING NEW SECTION 4.5015 RECOVERY RESIDENCES TO PROVIDE REGULATIONS AND PERFORMANCE STANDARDS FOR RECOVERY RESIDENCES; AND TO RENUMBER CURRENT SECTION 4.5015 MISCELLANEOUS PROVISIONS TO CONFORM; AND TO AMEND DIVISION 6 USE DEFINITIONS, ARTICLE 6.1 USE DEFINITIONS TO ADD A DEFINITION OF "RECOVERY RESIDENCE" AND TO AMEND THE GLOSSARY OF GENERAL TERMS TO ADD A DEFINITION OF "SINGLE HOUSEKEEPING UNIT.**

Chairman Wittmann opened the public hearing.

Senior Planner Mike Milillo stated that Z13-02 was a request for a text amendment to allow recovery residences. He commented that what they were talking about was adding recovery residences as a new use classification to allow these facilities in residential neighborhoods. Planner Milillo stated that the Commission had heard the case on two previous occasions and had also heard from various members of a focus group. The focus group was established in the early part of the summer and met on four different

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occasions. They came up with a couple of different alternatives for how to deal with recovery residences. Commissioner Peterson was part of the focus group and is well aware of the discussions that have gone on during the four focus group meetings. What was shared at the last study session was the 1<sup>st</sup> alternative which was to allow these by Conditional Use Permit but they found that to have some legal issues because the class that they were talking about, recovering drug and alcohol users are a protected class under the Federal Fair Housing Act. They are treated as a protected class as having a disability and in running those through the Conditional Use Permit process staff felt that it was going to have some issues in the future by running afoul with the Federal Fair Housing Act amendments. Planner Milillo said that as a result, they came up with a 2<sup>nd</sup> proposal which is that they treat those exactly the same as they treat group homes for the handicapped. He would preface all of the specific text amendments by saying that if you compare what staff is proposing for recovery residences to the group homes for the handicapped they are almost exactly the same. There are just a few differences because these are not licensed facilities which are licensed by the state of Arizona whereas group homes for the handicapped are. Mr. Milillo referred to the following information in terms of where they would be permitting recovery residences:

**Article 2.1: Single Family Residential Districts**

**2.103 Land Use Regulations**

Table 2.103 Land Use Regulations – Single Family Residential Districts is hereby amended to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

<i>Use Classification</i>	<i>SF-43</i>	<i>SF-35</i>	<i>SF-15</i>	<i>SF-10</i>	<i>SF-8</i>	<i>SF-7</i>	<i>SF-6</i>	<i>SF-D</i>	<i>SF-A</i>	<i>Additional Regulations</i>
* * *										
Stables, Non-Commercial	L1	L1	L1	L1	L1	---	---	---	---	See Section 2.107
RECOVERY RESIDENCE	P	P	P	P	P	P	P	P	P	SEE SECTION 4.5015
* * *										

**Article 2.2: Multi-Family Residential Districts**

**2.203 Land Use Regulations**

Table 2.203 Land Use Regulations – Multi-Family Residential Districts is hereby amended to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

<i>Use Classification</i>	<i>MF-L</i>	<i>MF-M</i>	<i>Additional Regulations</i>
* * *			
Shelter Care Facility <i>Large-Scale</i>	U	U	See Section 2.107
RECOVERY RESIDENCE	P	P	SEE SECTION 4.5015
* * *			

Planner Milillo said that they would have additional regulations in the Article 4.5 Supplemental Use Regulations. They would replace section 4.5015 with the recovery residence regulations. Similar to the group homes for the handicapped there is a purpose statement which planner Milillo read from page 4 & 5 of the staff report:

**Purpose.** The purpose of these regulations is to permit persons recovering from substance abuse to reside in a group setting in residential neighborhoods in order to facilitate integration and stabilization and to provide reasonable regulations to maintain the residential character of neighborhoods and prevent a concentration of such facilities in any particular area so as to institutionalize that area.

Planner Milillo said that there would be registration requirements and any potential operator of a recovery residence would need to register with the Town of Gilbert.

**Registration required.** A completed registration form shall be submitted to the development services department on a form established by the planning manager. Registration shall become effective upon issuance of a certificate of occupancy for the recovery residence and shall terminate when the recovery residence use ceases. No registration shall be accepted for a recovery residence that does not comply with the requirements of the zoning code.

Mr. Milillo stated that they would have to receive zoning confirmation and would need to speak with a staff member to find out whether they were within the required separation distances of 1200 feet from another recovery residence and whether they were in the correct zoning district.

**Zoning confirmation.** Prior to registration, a request for zoning confirmation may be submitted to the development services department to confirm that the proposed location of the recovery residence is permitted under this section.

Planner Milillo said that in terms of procedures they had a minor deviation from the group homes for the handicapped. Group homes for the handicapped do not have operations and management plans which is referred to as an O&MP but staff felt that due to the potential impact of these facilities on residential neighborhoods that they should require an O&MP which would include all of the contact information so that if there were any issues that arise in the neighborhood they would be able to share the contact information with homeowners association representatives or neighbors within the residential neighborhoods.

**Procedures.** Submit an operations and management plan (o&mp) to ensure compliance with state and local laws. Plan shall include name and address of the business owner and/or live-in house manager and name address and telephone number of the owner and person in control of the property. Plan shall provide emergency contact phone number. Plan shall indicate the number of persons per bedroom, maximum number of occupants, typical length of stay, and guest and resident rules of conduct.

Planner Milillo read the following information from page 5 of the staff report:

**Standards.** Recovery residences shall be located, developed, and operated in compliance with the following standards:

1. Recovery residence shall be operated and managed in compliance with the o&mp submitted with registration.
2. The minimum separation between recoveries residences shall be 1,200 feet from another recovery residence as measured from the closest property lines.
3. The number of residents, excluding the house manager, shall not exceed two residents per bedroom. The zoning administrator may increase the permitted occupancy based on specific characteristics and impacts.
4. There shall be no sign or other exterior indication of a recovery residence visible from a street.



5. Parking for the recovery residence shall be on-site and comply with LDC Article 4.2: off-street parking and loading regulations.
6. No recovery residence shall house any person whose tenancy would constitute a direct threat to the health or safety of other individuals or would result in substantial physical damage to the property of others.

**Request for accommodation.** If a recovery residence owner believes any requirement of the zoning code prevents the establishment of a recovery residence in an economically viable manner, the owner shall submit to the zoning administrator a written request for accommodation and the reasons why the accommodation is required. The written request shall contain sufficient facts to allow the zoning administrator to make an individualized determination of the recovery residence's needs, to address the town's safety and welfare concerns, and to assure compliance with this section. The zoning administrator shall review the written request and determine:

1. Whether an accommodation should be made pursuant to the requirements of the fair housing act; and
2. If so, the nature of the accommodation taking into consideration the requirements of the fair housing act, public safety and welfare concerns, and the residential character of the neighborhood.

The accommodation shall be made only to the extent necessary to comply with the federal and state fair housing laws.

**Single housekeeping unit.** An interactive group of persons jointly occupying a residential unit, including the joint use of and responsibility for common areas, and sharing household activities and responsibilities such as meals, chores, household maintenance, and expenses, and where, if the unit is rented, all adult residents have chosen to jointly occupy the entire premises of the dwelling unit and under a single written lease with joint use and responsibility for the premises, and the makeup of the household occupying the unit is determined by the residents of the unit rather than the landlord or property manager.

Planner Milillo commented that staff feels fairly comfortable that this is a needed use classification within the Town as there is currently a gap within the regulations. This is not a legal use in the zoning code currently although they know that they have these facilities within Gilbert. Staff feels confident that the proposed regulations comply with the Federal Fair Housing Act Amendment. They feel that it will protect the neighborhoods based on the standards set forth.

Vice Chairman Oehler said that in terms of the parking if they have a 5 bedroom house are they required to park all 5 bedrooms even if they are not occupying all of those at that point or is it based on a stated occupancy.

Planner Milillo responded that the way that the regulations are written for single-family is that all they are required to have is to enclosed parking spaces. That generally means that you also have to have a driveway in front of those 2 parking spaces. The requirement would be two enclosed parking spaces plus the driveway. Parking requirements for single-family are not based on numbers of bedrooms.

Vice Chairman Oehler said that he wished that they could put more into the parking because it is being treated as a single family home which is what the parking code would be as a group home as well. The concern the citizens had been about additional traffic.

Mr. Milillo said that they know that the operators seek out locations where there are other available parking spaces. If they know that they are going to have residents that have a need for parking or exceed the

demand of the two enclosed spaces plus what's on the driveway they are going to seek out locations that have other on Street available parking in the area that would not disrupt the neighborhood.

Vice Chairman Oehler said that would be true with a good operator.

Planner Milillo stated that if other operators end up parking all over the neighborhood Code Compliance will receive complaints and they will have to come into compliance.

Chairman Wittmann asked, if permitted, if they could use on Street parking.

Mr. Milillo said that if on street parking is allowed they could park within reasonable limits on the street.

Commissioner Cavanee said that what he was hearing from the other Commissioners was is there any provision to enforce this and staff was saying that it was just the regular parking code. He said that he believed that was making some of the Commissioners a little uncomfortable. He said that another concern was that a bad operator might classify every room in the house as a bedroom and in the end would end up with a much over occupied unit. He wondered why they didn't use a maximum occupancy number or perhaps square footage of the home.

Mr. Milillo said that they did not go to other communities in order to borrow regulations. What they did was look at their group homes for the handicapped regulations and tried to make these regulations as similar to those as they possibly could because it is a protected class. He said that he understood the Commissioners lack of comfort with the parking and some of the occupancy situations and he did not expect that this would be complete smooth sailing from now on. They are probably going to get good operators and not so good operators and where they had not so good operators they were going to have to use their Code Compliance staff and their jurisdiction in order to take action against those not so good operators. The people in the focus group appear to be the good operators and offered their suggestions on how best to operate those facilities based on their hands on experience and that is the way it is crafted.

Commissioner Cavanee asked if it would be fair to assume that during the registration process, which is a great idea, that some of those details could be stipulated and worked out with the operator. That would give him more comfort.

Chairman Wittmann pointed out that the registration process was not there to restrict or stipulate. She said that she was also concerned about the potential number of occupants and that there was probably a cap that was needed similar to group homes for the handicapped.

Town Attorney Phyllis smiley commented that the main reason that there were a number of occupants on group homes regulations as opposed to this is because the group homes are regulated by state law. That number of occupants is the number in state law for a group home. One of the reasons that they went with number of bedrooms has to do with building codes as there is no state regulation on sober homes but there are building code regulations as to bedrooms and occupancy per bedroom. That is why the Town chose to go the direction that it is going.

Chairman Wittmann said that because of the demographic in Gilbert there are many homes offered with 7 or 8 bedrooms so there is a potential for 16 occupants. She said that is where her concern came in.

Commissioner Cavanee said that it may help if they had a definition of bedroom with parameters. He said that he was afraid that operators would classify rooms as bedrooms that were meant to be bedrooms just to get by.

Vice Chairman Oehler said that there already is a definition for a bedroom which has to have a closet and an escapable route to the exterior through a window or door. He said that he had the same concerns because you could easily change a 4000 ft.<sup>2</sup> home into a 10 bedroom home. He said that he was leaning toward setting a cap as well.

Commissioner Bianchi asked if they had any idea how many of these facilities might be located in Gilbert. He said that he realizes that they've capped it with every quarter of a mile but did it come up at any of the stakeholders meetings in terms of what the demand was for the potential that they were really looking at.

Planner Milillo said that they know that they have 10 or 12 currently operating in the Town of Gilbert. There does seem to be a demand throughout communities throughout the United States.

Commissioner Bianchi asked if at any of those meetings the operators talked about any preferred house or lot size where the houses work best in.

Planner Milillo said that he could not recall a specific number.

Commissioner Bianchi said that if they were going to allow them in every residential component how would this work in a multifamily environment.

Commissioner Peterson said that the main reason that they stuck with all of the residential components was because of the other homes because of the other classification and they are trying to just mirror that. If they try to differentiate they are changing this classification to a different kind of classification and not allowing them all the opportunity that they could allow them. The legitimate businesses that have come to the focus group are not going to set themselves up for failure. This is a business for them and they are going to choose houses the size that they can manage and that worked in neighborhoods where they have available space to park whether in the garage on the driveway or public parking on the streets. What they need to remember is that these folks are running a business and they need it to run properly in order to keep people and keep the process working for people who need these facilities. Commissioner Peterson said that she understood wanting a cap on the number of people in a home because of the 7 and 8 bedroom homes in Gilbert. She said that she did not know that these people would want to even try set up in a 7 or 8 bedroom home because of all of the other issues that they have to deal with.

Commissioner Sippel said that he would agree with the other Commissioners and maybe a compromise would be to do the two people to a bedroom with an 8 – 12 people cap per facility.

Chairman Wittmann invited citizens who wished to speak on the case to come forward at that time.

Gloria Hernandez, Gilbert Arizona, came forward in opposition to the item. Ms. Hernandez stated that there were two sober homes in her area and in one of the homes they had 19 individuals and on the other side they had at least 10 to 12 at one time. They were not regulated and there was no one there in charge. There were at least 19 calls to the police made in one year. These were people that ran up and down the streets and in one instance one was chasing the other with a knife yelling that he was going to cut him up. Children in the neighborhood were afraid. The calls to the police were not made from just one or two people but from all of the neighbors. They had meetings that that they attended where the people would actually sit outside their bedroom windows on the street on the gutter talking. They said they were talking about the meetings. Ms. Hernandez asked what meeting they could be holding from 11 PM to 3 AM in the morning. This is a residential neighborhood and children have to get up to go to school and adults have to get up to go to work. Ms. Hernandez said that it had been presented that this meeting was advertised but the only way she got word of the meeting was because the homes were there and they were infringing on her lifestyle. She said there were plenty buildings in Gilbert that were empty, why did they have to go into residential.

Chairman Wittmann stated that one of the purposes for the current meeting was to discuss putting some restrictions and limitations on those homes that currently exist and are causing problems such as this. She asked Ms. Hernandez if she had had any opportunity to reach out to those two facilities.

Ms. Hernandez said that they did talk to them and they were always polite with their responses but in terms of acting no one was there to enforce anything. There was no one in charge. They could never find the person that the home was leased from. Also, a Sobers homes lights are on all night long because they are always expecting someone and cars go up and down the street all night long. She asked why they were being compared to a handicapped person because that is like comparing oranges to apples.

Chairman Wittmann said that they weren't really comparing them but just as far as use restrictions they were looking at some of the similarities as far as housing people within homes.

Janet New, Gilbert AZ, came forward in opposition to the case. Ms. New said that she had lived in her home for 3 years and has had a sober home behind her and a sober house for two years right beside her. She said that she comes here in the winter wanting to vacation and enjoy her home and the sober houses have made her life a living hell because she never gets any sleep. The cars come and go all night long and park all up and down the street and make noise. She said that her only recourse was to move which she almost did last year.

Gonzalo Ardavin, Gilbert AZ, came forward. Mr. Ardavin stated that he was an operator of multiple sober living homes. He commented that he was part of the focus group and how the process when it was amazing. He said that they really tried to cover all the bases. He said that this ordinance eliminates the houses and the bad experience that the 2 previous speakers had. He said that he certainly does not run houses in that manner. One of the issues is defining bedrooms. Part of the o&m is that they are going to provide a layout and define where the bedrooms are as part of the submission. That can be verified at that point. Traffic is a huge issue and a typical model of a house is 4 or 5 bedrooms with 2 ½ or 3 baths. They try to find houses that are big enough so that they can create two separate living areas. Mr. Ardavin said that he had been operating his facility since 2008 and on average 50% of the people have vehicles and 50% do not. In terms of parking they have to meet the city requirements. When they look for houses they look for houses that meet their needs and they have 2 people per bedroom and one house manager. In a 5 bedroom home they will house 11 people with 3 people in the master bedroom.

Vice Chairman Oehler said that in terms of the city parking codes and living in a 5 bedroom house with 6 cars on-site how do they typically deal with 6 cars.

Mr. Ardavin said that in the five-bedroom houses that he runs they have three-car garages. The driveways are also wider so that they can park there and the houses that they look for do allow on Street parking and that is how they handle it.

Vice Chairman Oehler asked if they park the cars in tandem.

Mr. Ardavin said that they do.

Vice Chairman Oehler asked if they have in their statement of regulations how they run their business, do they actually put in there that they park their cars on-site before they park on the street.

Mr. Ardavin said that they do. Each house manager has a system as to how the parking is handled. It is no different than having children park behind you who would know that they have to have their car out of the way before you leave for work. They handle those things like a family.

Jeff Marsh, Tempe AZ, came forward in favor of the item. Mr. Marsh said that he was also an operator/owner of a sober living residence within the Gilbert city limits. He said that he wanted to focus on the issues that the two women speakers commented on previously. The reason that they brought the case to the city was because of a regulation that they were following which is less than 10 people in a house. The whole thing started with one of his residences. His approach was that they wanted to follow all the rules and regulations that the town of Gilbert has so when he was approached about having this ordinance created he wanted to be able to follow everything that Gilbert laid out. The intent of the ordinance is that they do it the right way because they know their operators out there who are not doing it the right way. He commented that they regulate their residences to have a 10 PM curfew and do mandatory drug and alcohol testing so that they know that their residents are clean at all times. If they aren't they are removed from the house. The residents must have a job and be involved in a 12 step community and recovery and must be working with another person in recovery to help them better themselves. Most of the residents that are in the legally operated sober homes are coming out of a 30 Day Treatment center where they have gotten the tools to help them recover and obtain sobriety. They are trying to put their residents back into normal society where they can attain a level of self-sufficiency and not be a hindrance to society but be beneficial. The overall intent of this was to establish an ordinance that would prevent the description of what the ladies have in their backyards.

Commissioner Bianchi asked how they ensure that the uses are disruptive to neighborhoods and if you are a sober house operator how you patrol that.

Mr. Marsh said in his home they have a house manager and an assistant house manager so someone is there almost 24 hours a day. Part of the operating agreement is that those operators have certain rights by agreement to give discipline or kick someone out if they are abusing privileges and in that sense they maintain the level of the house and maintain the security and environment of the house. Mr. Marsh said that he typically goes to his houses 2 and 3 times a week. He and his business partner are constantly involved and that is how they maintain the level of the home.

Commissioner Bianchi asked if they typically lease or buy these houses.

Mr. Marsh said the current market conditions they are renting but their ultimate goal is to buy their houses. He commented that when he rented his homes he informed the owners as to what his plan was and showed them his operating manual.

Commissioner Sippel asked what the occupancy was in Mr. Marshes Homes.

Mr. Marsh said that he was originally cited for having 10 people in a five-bedroom house that were unrelated. In starting his business he was unaware of that rule. In his house in Gilbert he has 5 bedrooms with 2 people per bedroom in a 2800 ft.<sup>2</sup> house with 6 available parking spaces on the premises. There only four cars there currently.

Vice Chairman Oehler asked staff if they had a guesthouse on a property would the ordinance be based per house or on the total property.

Planner Milillo said that it would be based on per property because they measure from the lot line the separation distances. If the Commission were inclined to approve the case there is a sentence that they need to add in the separation sentence which is exactly the same as the sentence that they have in the group homes for the handicapped. It clarifies how it is measured and it is lot to lot so you would not be able to count a guesthouse separately.

Vice Chairman Oehler said if there was a stipulation, for example 10, would that still be per house or per property.

Mr. Milillo said that would be per property.

Vice Chairman Oehler asked if any of the residences would be grandfathered.

Planner Milillo said no and that all of the uses that are currently operating are illegal. They are not operating legally because they do not have any regulations that address them. Each residence will have to go through a registration process to make sure that they meet the separation distances before they can actually become legal.

Vice Chairman Oehler asked if there were any minimum standards for the operating agreement.

Mr. Milillo said only in so far as they have it outlined within the actual code such as contact information, number of persons per bedroom, maximum number of occupants, typical length of stay and guest and resident rules of conduct.

Commissioner Fuller's asked if testing, lights out, curfews and financial capabilities needed to be in the plan.

Planner Milillo said that a lot of those items that had been mentioned would fall under rules of conduct which is mentioned.

Commissioner Peterson said that each business would have its own rules of conduct.

Commissioner Fuller said that he believed that the majority of people would not have an issue with a properly run recovery house. The people's concern is about the ones who are not properly run. He said that they were enacting a regulation that he was not sure solved the problem but simply raised the bar. The question was does it raise it high enough so that the citizens feel that some meaningful legislation will be passed.

Planner Milillo stated that what they were trying to do was to strike a balance. They understood that two major issues were parking and occupancy. What is in 4.2 03A states that all required parking shall be provided on-site. There is also subsection F visitor parking which states that on Street parking may be counted towards visitor parking so in certain zoning districts they have some visitor parking requirements where there are really high densities. They also have some on Street parking allowance for those districts here. But when they actually get into the on-site parking requirements what they require for single-family is two enclosed spaces per unit. For single-family with no on Street parking, two enclosed spaces per unit +.25 guest spaces per unit are required. Multifamily is based on the number of bedrooms. That is what they will be applying to those facilities. Planner Milillo stated that if the Commission is inclined to recommend approval under the separation distances the 2<sup>nd</sup> sentence under separation should be added.

Vice Chairman Oehler said if they have a utility right-of-way between you wouldn't need the 1200' and could be less than the 1200'.

Planner Milillo said that was correct. That is the way they always supply their separation distances for all of the uses that require them. If the Commission does have an issue with occupancy it was suggested that they add X number of resident's maximum standards number 3, not to exceed 2 residents per bedroom and a maximum of X number of residents.

Commissioner Fuller said that he was more in favor of the Use Permit then what is being proposed currently. If they should get a bad actor with complaints like the two previous ladies were describing, is the registration something that could be pulled.

Planner Milillo said that he believed that it would be Code Compliance activity. The registration is basically a formality where they will be providing the Town with information and they would be told whether they meet certain minimum requirements such as separation distances and that they are in the right zoning districts.

Commissioner Fuller said that it was just basically an information card.

Planner Milillo said that was correct.

Vice Chairman Oehler said that going back to the parking, there is no way to go to the visitor like they have the .25 per visitor so you deal with the bedrooms and then you look at if you have 10 people then there is a base limit whatever that number is plus the visitors at that point is there a way to add a percentage or is it truly based on group home which is stated in the 4.2 or would they have to do a complete amendment to get to that point for the visitor.

Planner Milillo said that they can add another provision the way it is currently written unless they are in the districts that have the requirements of the .25 guest parking or in a multifamily district that requires visitor parking. You do not have to provide that but if it is the Commissions wish to add that type of a requirement under the parking section they can certainly do that.

Vice Chairman Oehler said that would be added to the 4.2 as a line item for that type of use or how would that be stated.

Planner Milillo said that they might be able to cross reference the parking requirements but they may want to add something specifically to the supplemental use regulations that addresses that.

Chairman Wittmann said that generally speaking no more than 50% of the occupants have vehicles so if they start adding requirements to parking for the entire number of occupants then you are potentially adding spaces for those who do not utilize them. She wondered if there was a way to handle that and instead of addressing it as a percentage per occupant, perhaps if it is no more than 3 cars can be parked on the street parking at any one time. The problem is parking on the street and the effect on adjacent residents.

Commissioner Peterson asked if they were looking at all the vehicles that would potentially be at the home because of the occupants that are there.

Vice Chairman Oehler said that he was looking at it in terms of that perhaps when you first move in you don't have a vehicle but through the process you get a car and get ready to go back into society then that number starts to grow as they are successful. You would not be at 100% parking but he was looking at if this were my house how what I do it at my house.

Commissioner Peterson said that if you're looking at visitor parking that is different than occupancy.

Vice Chairman Oehler said that he was classifying visitors as occupants not visitors. He was looking at a single family home and how would it occupy. That is his baseline.

Commissioner Peterson asked how you enforce that. In her neighborhood they have three-car garages and there are still 3 family cars parked on the street because people don't want to do the jockeying in the driveway. Who enforces that?

Vice Chairman Oehler said Code Compliance. However, he wished that there were another way other than Code Compliance because they take a year to have things happen.

Commissioner Peterson said that was an awfully large load to put on Code Compliance.

Planning Manager Linda Edwards said that if she understood the Vice Chairman's suggestion to add .25 visitors to the use that would be very difficult to do in a neighborhood that is already developed. When talking about a single-family neighborhood that has a requirement for visitor parking it is established at the time of preliminary and final plat. Once the homes are built the only way to add visitor parking is for a property owner to somehow acquire land within an established neighborhood. If the streets are public anyone can park in the street whether it's 3 cars or 15 cars and Code Compliance cannot kick someone off a public street if they are parking legally.

Vice Chairman Oehler said that he was using the word visitor but was looking at it as occupant and he wants the occupants parking on-site. If they have 6 cars he wants to force as much as he can to get those cars on-site and not off-site. He said that if they want to park they have to have a large enough lot to park on-site either tandem or in his side yard if that's allowable.

Miss Edwards said that the code provides parking per unit on-site. A realistic sober home could have more cars per unit just like any family with teenagers. She said that she wanted to advise the Commission to be careful that they are not requiring something more of a federally protected handicap class than a normal family with teenagers.

Chairman Wittmann said that the concern was that they do not want to create a burden on existing residences for these uses coming in and parking along the street. Perhaps it becomes a requirement that these businesses have to find a home that has 3 or 4 car garages or enough parking available or make it such that they can provide enough on-site parking so that it doesn't intrude on adjacent residences. Because it is a protected class they have no remedies other than Code Compliance. There is no way for them to control the bad operators.

Chairman Wittmann closed the public hearing.

Commissioner Bianchi said that this is a recovery business operating in a residential area and is permitting more adults than is typically in any home for short periods of time almost creating a transient like environment. If the tendency is to lease, is there really a long-term benefit to the neighborhood in addition to the HOA's having to accept these as well. He said that he was not comfortable allowing two adults per bedroom plus a house manager with Zoning Administrator options for additional residents. He said that he believed that they could allow fewer residents per home and perhaps not in every residential district especially small lot residential. Maybe they could look at a use permit for recourse as an option or some sort of recourse such as a cap on the number of residents. Somehow that still allows them to be within fair housing compliance but at the same time protecting peoples housing investment. Commissioner Bianchi said that as it is written currently he could not support it.

Commissioner Fuller said that he thinks this use provides a valuable service to the community. He said that they had had citizens come forward who have stated that the program has really changed their lives. On the other hand they have also had individuals give testimony about how disruptive a poorly run house is on their neighborhoods. Commissioner Fuller said that he would be in favor of a Use Permit. He said that in his mind if these residences are operated properly and by the rules it will be fine. If not, then there is some sort of remedy that he did not see in what was being proposed currently. Code Compliance is not a proportionate remedy to the destructive nature that a poorly run house has on the community.

Chairman Wittmann said that a Use Permit requires notice so how do they get around that since this is a protected class.



Commissioner Fuller said that they would post the notice; people would come in and say that they do not want a sober house in their neighborhood and the Town's response would be that that is not a legitimate reason for not allowing a use permit.

Chairman Wittmann said that playing devil's advocate, if a Use Permit was a requirement and they had to meet the 4 state standards, one being no detrimental to adjacent residents, residents could theoretically come in and say this will have severe negative impact on the neighborhood.

Commissioner Fuller said that was a prospective damages claim that is unenforceable. What they would say is that those citizens don't know that. There are many of those residences that are run properly and do not have a negative impact on their neighbors.

Chairman Wittmann said that they could refer to the operations plan which would be couched in a way that would protect and regulate that residence.

Commissioner Fuller said that was correct and if they don't do what they are supposed to they are in danger of losing their Use Permit.

Commissioner Peterson noted that their packet did not even discuss the Use Permit as an option. The public was not allowed to discuss the Use Permit as an option. They went with what was presented to them by staff and what was in the packet. She said that it would be more beneficial to her and perhaps to others to continue the case for one more month and come back and discuss it some more and hear from the public how they felt about a Use Permit. That was not even on the table for business owners or the public to discuss. Commissioner Peterson said that she heard from the owner/operators in the meetings that a Use Permit is going to open their property up to everyone. They like to keep their residences anonymous. They like to keep the people who come into those residences anonymous and do not want the public to know where they are located. Because they come into the Town and file a permit and their operating procedures you can come in and request that and find out where they're located but it is not opened up to everyone with public notice with a 4' x 6' bright yellow sign in their yard that says this is a potential recovery residence. That opens them up for everyone knowing that that is what that property is going to be used for and does not keep them private and anonymous. It also does not fall under the same standards as being treated like a group home.

Commissioner Fuller said that if they want to continue to the case he would be fine with that. They are not private now as they have to file with the Town. If they were truly concerned about them being private they would not have a registration component.

Commissioner Peterson said that this would be a lot more public as the residence would be published in the packet, noticed with a 4 x 6' sign, aired on Channel 11 and the packets with the location would be on the website. That is much more public than then coming into the Town to file an application.

Commissioner Fuller said that he was not so sure that it was a bad thing that the neighbors know that there is a recovery house going in next door to them. He said that with the way it was presented he would not be in favor of the request but would be in favor of a Use Permit.

Commissioner Sippel said that he would be okay with further discussion in terms of a Use Permit. As it is currently written, he would like to see some sort of not to exceed 11 or 12 occupancy. He chose the number 11 because of their being 2 per bedroom and one on site manager. There may also be some sort of parking solution, for example one space per bedroom or something like that.

Commissioner Cavanee said that he was happy to continue the case and would agree that a cap needed to be put on the house and concurred with 11 if that is the direction they wanted to go. A continuance would give them a little more time to flesh out some of the other issues.

Commissioner Peterson asked Commissioner Cavanee how he felt about the Use Permit process.

Commissioner Cavanee said that he understood the protected class comment and would certainly defer to legal counsel to make sure that they understand that better and are not in a position to be at risk for something in the future. He said that he also understood Commissioner Fuller's comments about the benefits of a use permit and that you can revoke it. He said that he thought there was plenty of balance between how private and public these homes should be. If one comes into your neighborhood you might want to know where it is at. Commissioner Cavanee said that in terms of the Use Permit he was more concerned with the legalities and if it were legal it would probably be a better option.

Commissioner Sippel said that as an HOA president and thinking of his community he would absolutely want to know if there was one in his community. He did not know if they could do that but if they could he would be in much more support of a Use Permit just because of that.

Vice Chairman Oehler said that he would not be against the Use Permit but would like to know if there was another mechanism where they could go outside of that. He would also like to see standards set in the operation agreement. Vice Chairman Oehler said that he also had a concern about the number of occupants per unit.

Commissioner Peterson said that the residential uses came directly from staff out of the group homes. It is mirrored exactly the same to keep it fair.

Vice Chairman Oehler stated that he was 100% in favor of setting some kind of standards for occupancy. He said that everything that they have currently is based on the good operator and they have no parameters for the bad operators. He said he would not have any problem having a good operation in his neighborhood. But they need some mechanism for the bad operators. He said that they were not getting people who came in and said that they had one of these homes next to them that were a perfect neighbor with a well-run operation.

Commissioner Peterson said they did have those people at the first meeting. The reason that they were getting the bad stories is because there are no regulations at this point.

Vice Chairman Oehler said that they were not raising that bar high enough. He said that a Use Permit would be a difficult issue because of the protected class so he would like to see if staff could find another mechanism.

Commissioner Peterson said that they did look at other options such as administrative and conditional and what they were looking at was what they came up with as a group which included staff and the Town Attorney.

Vice Chairman Oehler said that to overload the Code Compliance staff would be tough and enforcement would just entail a letter and perhaps a fine and would drag out over a long period of time. That is no solution for a bad apple.

Commissioner Peterson said that her understanding was that the Vice Chairman liked the idea of the revocation of the Use Permit so that if there is a problem there is a way to resolve it but was not necessarily for the Use Permit in the sense of a public hearing and all of that.

Vice Chairman Oehler said that is why he would be in favor of, for example, 10 items in an operation manual and if there is something in the manual that the operators/owners are not doing there would be a mechanism to pull their ability to operate.

Commissioner Fuller said that the fact that the operators/owners have to go through a public process was not as much of a deterrent to him to not be in favor of the Use Permit but that is not the issue, the issue is that they need some sort of remedy for the bad apple. As long as they do what they say they are going to do they are going to be able to operate in the Town. If they don't do what they say they are going to do there needs to be a remedy where they are not going to operate in the Town.

Commissioner Peterson said then that is the instruction that they need to give to staff.

Chairman Wittmann said that she also believed that there needed to be some sort of remedy in place. Their job as the Planning Commission was also to protect the existing residents; the way it is currently designed it is not necessarily doing that. It is only protecting the owner/operators and the protected class. There definitely needs to be a limit in the number of occupants, specifically the number of recovery residents, not necessarily the operator. Chairman Wittmann said that in her mind the number would be 10 with the operator not being part of that number. There also needs to be some way to address the parking concern so that the streets are not overloaded. Chairman Wittmann said that she would also like to see an outline of a manual/plan that addresses hours of operations and specifics that the owner/operators have to complete as part of their plan rather than even leaving it open-ended. There needs to be some mechanism to control this type of use. If the Use Permit is the only opportunity to create some teeth in this type of use, as long as they meet the 4 findings they should be allowed. Residents need to know what is coming into their neighborhood as they have invested in their neighborhood and have the right to know without having to go and do their own research or to find out about it after the fact when they begin to have problems, if they have problems. Chairman Wittmann said that she would be in favor of a continuance to give staff an opportunity to come up with some creative way to address some of the issues.

**A motion was made by Commissioner Kristofer Sippel and seconded by Vice Chairman Joshua Oehler to continue Z13-02 to the January, 2014 Planning Commission meeting.**

Planner Milillo asked if the Commission would consider continuing the case to the February 2014 Planning Commission meeting as staff would like an opportunity to meet with the focus group again and he personally would not be there in January.

**Commissioner Sippel amended his motion to continue Z13-02 to the February Planning Commission meeting. Vice Chairman Oehler concurred.**

**Motion carried 7-0**

**UP13-19 VERIZON: A CONDITIONAL USE PERMIT TO ALLOW A NEW MONO TREE WIRELESS COMMUNICATION FACILITY - WCF, ON 0.01 ACRES OF REAL PROPERTY, AT 2456 S WILLIAMS FIELD RD., LOCATED SOUTH AND WEST OF THE SOUTHWEST CORNER OF HIGLEY AND WILLIAMS FIELD ROADS, IN COMMUNITY COMMERCIAL (CC) ZONING DISTRICT WITH PLANNED AREA DEVELOPMENT (PAD) OVERLAY.**

Senior Planner Al Ward stated that UP13-19 is a request is to locate a new Verizon Mono Tree Wireless Communication Facility with a height of 65 ft. on a 0.01 acre site at on a 0.01 acre site at 2456 S Williams Field Rd., located south and west of the southwest corner of Higley and Williams Field Roads, in the Community Commercial (CC) zoning district with Planned Area Development (PAD) overlay. The Cell Facility is intended to look like a Broadleaf Tree such as an Elm tree and resemble other deciduous trees, which the applicant indicates are contained in the vicinity. An existing

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80 ft. tall monopole currently exists near the southwest corner of the property which was constructed in the County in the 1980's, however this is an old concrete tower and is unable to provide for additional antennas, including the ones being proposed. Planner Ward displayed a photo of the site and pointed out a billboard located on the site which looks northward along Higley. What is being proposed is the Mono tree which has replica branches and leaves in which to put the antenna within. Staff has proposed to the owner/provider that they come up with something with more appropriate aesthetics as this will become a commercial corner and the Mono tree is what they have come up with. Unlike the Mono Palm the Mono tree is co-locatable. The request is for a new 65 ft. tall Mono Tree Wireless Communication Facility with 3 sectors, 4G cellular antenna situated at the 55 ft. RAD center level. There could be a 2<sup>nd</sup> set of antenna at 45 feet and potentially a 3<sup>rd</sup> set at 35 feet. Planner Ward displayed a picture of what the Mono tree would look like. One of the conditions of approval would be to have two companion broadleaf trees located adjacent to it so that it would blend in over time.

Vice Chairman Oehler asked what the size of the real trees would be.

Planner Ward said that the trees would probably be a 36 inch box.

Chairman Wittmann invited the applicant to come forward.

Steve Ciolek, Coal Creek Consulting, Scottsdale, AZ, came forward representing the applicant. Mr. Ciolek's stated that Verizon was experiencing some capacity issues in the neighborhood due to the growing number of cell phones and other wireless devices in each household. Verizon prefers to co-locate in that area and in other areas that option was limited. They agree that the pine tree would not be appropriate in the area and so came up with the broadleaf tree which resembles an Elm tree. There are mature trees to the West of the property that they will mimic and they agree with staff that additional live vegetation would be required and fitting in the neighborhood.

Chairman Wittmann invited members of the public who wished to speak on the case to come forward at that time.

Sandra Day, Gilbert, AZ came forward in opposition to the case. Ms. Day stated that she had been living in the area for 9 years in the Street immediately South of the parcel of commercial property. She said that she was disgusted and appalled by the handling of the matter by Verizon and by Town Staff and that there were irregularities involved in the agenda and staff report that should be taken into consideration. Ms. Day said that she only became aware of the notice of public hearing through the HOA. She pointed out that Williams Field and Higley had been the site of horrific and massive construction zone for months and for the staff to write a report and to cite that notice had been given because a 4 x 8' sign has been posted on the property was appalling and misrepresents the entire concept of citizen participation in government. Certainly, no one has had a reasonable opportunity to know that this proposal has been offered and how convenient for Verizon that they are permitted to do this posting during the big construction project. Does the staff not have the facts at hand and were they not aware that part of the time the residents were driving on the opposite side of the road. There are obstacles, barriers and police cars within a hectic area which anyone with an IQ of over 75 has been trying to avoid for months on end and that was the notice that had been given to the neighborhood. The staff then states that they have not had any opposition from the neighbors. Ms. Day said that three people whose property backs into that area were totally unaware of it because you cannot see that type of notice when you're going through that type of construction zone. This is not a compatible use and is really an unfair sneak attack on the neighborhood. When the report talks about the southwest portion of the property it is not the tiny portion shown on the square that is shown on the notice, it is the southwest portion of the entire area. People who built homes there were aware of the 85 foot concrete tower that existed there. Now they were talking about people who were unaware of it who knew they backed into commercial property who would anticipate something like a restaurant for example and now they will have a 65 foot tower which will be a great surprise to them. Isn't it convenient that this case was scheduled during the holiday season when no one would have the opportunity to even learn about it? It will depress property values and distract from the visibility that people have had who will

now have a 6 ½ story structure to look at. Ms. Day said that there are other sites that Verizon can go to and that this is prime commercial space. The proposal that was given in the notice shows the plain structure and now they are supposed to be thrilled because it is going to look like a tree, a tree that is 6 ½ stories high. Ms. Day said that she was totally opposed to it and that a lot of neighbors would have been present had they had an opportunity to know and shame on the staff for reciting that proper notice was given.

Chairman Wittmann pointed out that notice was provided on the Town's website and also provided to homeowners within 300 feet and to HOA's within 1000 feet. So in addition to the posting on-site there are other requirements for notice that is given. Unfortunately, no one has control over construction schedules.

Ms. Day said that she had been an attorney for over 40 years and that her brother was the planning director for a number of years in the city of Tempe. She said that she did not believe that the city of Tempe, knowing of a major construction project and knowing that people would not have the opportunity to see the posted information, would choose to rely upon the legally sufficient notice that is actionable non-notice to people negotiating the area.

Planner Ward said that the pole did come in at 59 feet and with the Mono tree, counting the very top of the limbs, it came in at 63 feet. The report says 65 feet and staff apologizes for indicating 59 when it is actually 63 feet. With respect to notification, the sign was posted according to the standards and notification was sent to the property owners within 300 feet which the affidavit shows and which provides the list of names to which notice was sent.

Chairman Wittmann asked the Town Attorney if the public notice was provided for 59 feet or 65 feet as provided in the staff report.

Town Attorney Phyllis Smiley stated that if the notice was posted at 63 feet and it came in at 59 feet that would be fine but since it is taller than what public notice was given as, it probably should be re-noticed. She would recommend that the case be continued to provide proper notice.

Commissioner Sippel said that the Mono pole is 59 feet and the 63 is because of the tree limbs. He said that he drives past the site every day asked if they had to do the tree. He said that this tree was going to stand out like Mount Rushmore so perhaps it didn't need to be continued but could be moved forward without the monstrosity of the tree.

Chairman Wittmann said that they could approve it that way and asked if he happened to notice the 80 foot Mono pole on-site. She asked the applicant if they would be amenable to moving forward without the decorative attachments to the monopole.

Mr. Ciolek said yes, they would be amenable to that. In discussions with staff it was decided that having a tree would be the best solution to disguise it.

Vice Chairman Oehler said that the new pole will be much closer to the street and whatever is put there will be seen. The existing pole is set far back in the property. He said that he did not see the point in adding two live trees as without irrigation they wouldn't grow. He suggested that staff go back to the drawing board and craft something with a better design.

Commissioner Cavanaugh said that he did not see a problem with the basic pole. They are features of our world today and are not an eyesore any more than a power pole or anything else is. He said that he did not think that they needed live trees to hide it. He said that he did have concerns about the closeness to the street frontage as these are typically embedded deeper within the mile squares that they see where they are not necessarily as readily seen. Commissioner Cavanaugh said that he was concerned with the

closeness and the way it impacts future development and that they may want to consider that further but he was fine with everything else.

Commissioner Peterson said in terms of moving it back further on the property they don't even know who owns the property and if Verizon has a deal to do that. They have a deal to do it where it's at and that is what is presented currently. Moving it would put it closer to the residents and they are definitely not going to like that. She said that she did not like the trees either and would rather just see the pole.

Commissioner Bianchi said that he would agree with everything that his fellow Commissioners said. In terms of location he would not want it brought closer to residents either and his preference would be to put it as far away from them as possible on that site.

Vice Chairman Oehler asked if there were a building issue in locating the pole closer to the billboard.

Chairman Wittmann said that there may be a restriction on the billboard lease in terms of preventing anything from locating near it.

Vice Chairman Oehler asked if they would still have a structure that would have multiple signals going down the pole.

Commissioner Bianchi asked if it was made into a Mono tree of some sort does it limit locating in the future. If it doesn't have the tree on it does it leave the potential for another co-locator?

Chairman Wittmann said that on the exhibit in the packet on paid Z - 3 it says "lessee to provide pole extension flange for future co-location." She said that she assumed that there was ability built in to co-locate.

Planner Ward said that there would not be any additional height provided on a monopole like this; however, there could be at least one more set of antenna below what they were seeing currently. That would have to come back through the process.

Chairman Wittmann said in terms of the verbiage that they were looking at currently that said "lessee to provide pole extension flange for future co-location at the top of it", she did not know what that meant.

Steve Ciolek said that the monopole could co-locate another set of antenna below or above using the flange.

Chairman Wittmann said that he realized that to do that he would have to come back through the process.

He said that he was aware that they would have to come back.

Chairman Wittmann said that as long as the height doesn't increase the approval includes: location of anything below the height maximum and could be added at any time without coming back through the process. If they increase the height they would have to come back.

Planning manager Edwards said that they would have to come back if a co-locator wants to locate on an existing monopole.

Commissioner Sippel said if they could move the pole to line up with the billboard it puts everything in one area.

Planner Ward stated that the applicant was indicating that subsequent co-locating on that pole would potentially have a RF radio frequency interference with the Billboard. Locating the pole closer to the billboard may have negative effect on subsequent co-location reception.

A motion was made by Commissioner Brigette Peterson and seconded by Vice Chairman Joshua Oehler to remove the option of the tree and limit the pole height to 59 feet and eliminate the two live trees and move to make the findings of fact and approve UP13 – 19 Verizon, a Conditional Use Permit to allow a Wireless

Communication Facility, on a 0.01 acre site at 2456 S Williams Field Rd., located south and west of the southwest corner of Higley and Williams Field Roads and deleting stipulations 2 and 3 and modifying stipulation number 1 about substantial conformance of the site plan and elevations to just a standard monopole rather than the decorative Mono pole proposed.

Town Attorney Phyllis Smiley said that there were two different property amounts as the agenda states .02 acres of real property and the staff report states .01 acres of real property. She asked for clarification. If it was 0.02 Commissioner Peterson would need to amend her motion.

**A motion was made by Commissioner Brigette Peterson and seconded by Vice Chairman Joshua Oehler to remove the option of the tree and limit the pole height to 59 feet and eliminate the two live trees and move to make the findings of fact and approve UP13 – 19 Verizon, a Conditional Use Permit to allow a Wireless Communication Facility, on a 0.02 acre site at 2456 S Williams Field Rd., located south and west of the southwest corner of Higley and Williams Field Roads and deleting stipulations 2 and 3 and modifying stipulation number 1 about substantial conformance of the site plan and elevations to just a standard monopole rather than the decorative Mono pole proposed.**

**Motion carried 7 – 0**

Move to make the findings of fact and approve UP13-19 Verizon; a Conditional Use Permit to allow a new 65 ft. tall Mono Tree broadleaf Wireless Communication Facility, on a 0.02 acre site at 2456 S Williams Field Rd., located south and west of the southwest corner of Higley and Williams Field Roads, in the Community Commercial (CC) zoning district with PAD overlay, subject to the following conditions:

1. The Project shall be in substantial conformance with the site plan, landscape plan and elevations/ details shown on the Exhibits noted under Attachment #4.
- ~~2. The Mono Broadleaf WCF shall contain suitable density of leaves and limbs to adequately conceal the antenna, to the satisfaction of Gilbert staff.~~
- ~~3. Developer shall provide two (2) “Companion Trees” situated near the site, to resemble and provide partial screening to the proposed Mono Broadleaf WCF use.~~

Chairman Wittmann recessed the hearing at 8:35 p.m.

Chairman Wittmann reconvened the hearing at 8:40 p.m.

**Z13-33: REQUEST TO AMEND THE SEC GILBERT AND PECOS ROADS PLANNED AREA DEVELOPMENT (PAD) BY REMOVING APPROXIMATELY 18 ACRES OF REAL PROPERTY IN THE SHOPPING CENTER (SC) ZONING DISTRICT WITH A PLANNED AREA DEVELOPMENT (PAD) OVERLAY ZONING DISTRICT AND TO REZONE SAID PROPERTY TO SHOPPING CENTER (SC) ZONING DISTRICT WITH A PLANNED AREA DEVELOPMENT (PAD) OVERLAY ZONING DISTRICT AND TO REZONE APPROXIMATELY 215 ADDITIONAL ACRES OF REAL PROPERTY FROM APPROXIMATELY 69 ACRES OF REGIONAL COMMERCIAL (RC), AND 146 ACRES OF BUSINESS PARK (BP) ZONING DISTRICTS TO APPROXIMATELY 18 ACRES OF SHOPPING CENTER (SC), 69 ACRES OF REGIONAL COMMERCIAL (RC), AND 146 ACRES OF BUSINESS PARK (BP) ZONING DISTRICT, ALL WITH A PLANNED AREA DEVELOPMENT (PAD) OVERLAY ZONING DISTRICT.**

Senior Planner Al Ward said that the project known as Rivulon has been in the works for several years and is now coming to the forefront. It is located on the Northeast corner of Gilbert Road and the Santan Freeway. There is an overpass at that location with Lindsay Road to the East and Pecos Road to the North. The project will create an overall PAD for the 233 acres as well as amended development standards and an

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initial development plan. All of the zoning districts will remain the same but will go under one master PAD development. The 22 acres at the extreme southeast corner of Gilbert Pecos Road was originally and it and zoned in 1999 for Exxon and LA fitness. Rivulon is in the process of including 18 acres of that 22 acres leaving out the 4 acre Exxon station. In addition to that 18 acres at the Northwest corner of the property there is an additional 215 acres that will be included into the PAD to form a total of 233 acre area. Along Gilbert Road is the 69 acre Gilbert Esplanade site which went to Regional Commercial in 2006. The Design Review Board approved a master commercial development on the property of 600,000 ft.<sup>2</sup>. That expired as the economy went bad and plans changed. Rivulon purchased the property and has been acquiring lots from 2007 up until the present. Behind Rivulon are Nationwide Realty Investors and the Town and Nationwide Realty Investors entered into a development agreement in 2012 dealing with infrastructure improvements. There are two projects on the Rivulon site so far, LA fitness and the 4 story office building are both in the development phase. The entire Rivulon site will be going to a PAD. Planner Ward displayed the overall zoning area and indicated the two projects in phase 1. Rivulon Boulevard will come in off of Gilbert Road with a signalized intersection. East of the LA fitness building will be a four-story office building going through Design Review in December. Planner Ward referred to the amended development standards from page 4 and 5 of the staff report which are as follows:

- Section 4.206 I Dimension for Parking Spaces and Aisles: Perpendicular Parking, to reduce the minimum dimension of parking spaces for Office Parking Lots (not including retail or restaurants) from 19 by 9 feet to 18 by 9 feet, while maintaining standard minimum of 25 ft. wide drive aisles. The purpose of this request is to allow office uses, who are familiar with the parking stall sizes provided, to utilize the shortened stall depth allowing for more compact office parking lots and providing for more open space for the overall Rivulon site. Other uses such as Retail would use the LDC standard for the minimum dimension of parking spaces.
- Section 4.2012B.2.a. Parking Lot Landscaping: The request is to increase the number of parking spaces allowed between parking lot landscape islands from 1 island for every 8 to 1 island for every 12 parking spaces and to provide 6 x 6 ft. landscape diamonds at a maximum of 1 for every 4 parking spaces and situated between parking landscape islands.
- Section 4.2012A.2.a. Landscape Berm for Parking Lot Screen Wall: The request is to increase from the maximum 25% of the length of a required 3 ft. tall parking lot screen wall (allowed as landscaping or berming to substitute for CMU fences) to 50% of the length of the parking lot screen wall. Varying the use of a combination of landscaping, berming and 3 ft. CMU parking lot walls would allow interest, aesthetics and detailing.
- Section 4.2016A.1 and 4 Bicycle Parking: The proposal would decrease the rate of bicycle parking required from 1 per each 10 required vehicle spaces to 1 per each 100 vehicle parking spaces and from a maximum of 100 bicycle parking spaces provided for any use to a maximum of 50 bicycle parking spaces provided. The building site plan allows area for additional bicycle parking spaces if the need arises in the future.

The purpose of the Amended Development Standards is to allow more compact office parking lots while providing varied parking lot screen walls. The request enables and supports continuity of the overall Rivulon master project and provides for more open space, amenity areas and allows pedestrian connectivity for the site. Planner Ward noted that in terms of the parking modules there were 63 feet between modules and what the applicant would like to do is move that to 61 feet by reducing the depth of the parking space from 19 to 18 feet. They would like to increase the spaces allowed between the islands to 1 island for every 12 spaces with a 6 x 6 diamond planter in the center at 6 spaces. The numbers that the Town Code under the same area would provide would be 306 spaces. If the applicant goes with the alternate plan, the reduced parking space and one landscape island per 12 spaces that would be 338 spaces. Overall, per code, they have 47 trees and on the other hand, Alternate B has 46 trees. With the modifications that would be less depth in the stalls, they have added 32 parking spaces however they have only lost 1 tree out of all of that. It ends up to be one tree per 7.3 spaces if they go with Alternate B. Mr. Ward noted that in the center there would be a parking canopy to screen the cars and there would not be a diamond planter in that location. In



the Alternate A option there would be the same number of parking spaces, 338, the difference would be 37 trees versus 46 trees which is a significant change. Staff is supporting Alternate B. Rivulon will be developed within the next 15 to 25 years and has a potential of 3.2 million square feet of floor area. There is also a possibility of a future interchange on Lindsay road at the San tan. The request for the overall PAD unifies the site and provide infrastructure improvements and include suitable amended development standards appropriate for the site the project features a high level of architecture, distinctive streetscape and entry area and featured landscape open space and pedestrian connections. Planner Ward noted that they had not received any public comments. The signs have been appropriately located and staff is recommending approval subject to the amended conditions.

Chairman Wittmann asked if the amended development standards that are being requested is for the entire 233 acre site.

Planner Ward said that it does apply to the entire 233 acres site, however, the smaller depth of the parking spaces are only intended for office.

Chairman Wittmann asked if the reduction in in the parking lot landscaping applies to the entire PAD as well as the parking lot screen wall increase.

Planner Ward responded that it did.

Vice Chairman Oehler asked if the Town accepted diamond planters as a use for the trees. He said if you plant a tree in a diamond there is no place for shrubs next to it.

Planner Ward said that mentioning trees only may not be 100% accurate however, as far as the overall open space the reduced module Alternative A provides 7500 ft.<sup>2</sup> of open space in the same area that they are comparing to the standard code which would be 9200 ft.<sup>2</sup>. It does reduce the amount of open space but the applicant's point is that it still provides the same number of trees and does allow for a more condensed parking lot and they are putting open space in other locations around the building and through some other open space corridors that are being provided.

Vice Chairman Oehler said that 1800 ft.<sup>2</sup> of open space lost is a lot in a parking lot. He asked what that was a ratio to. He said that he did not know what 1800 differential square feet was. To what acreage was it related to. He asked what the rationale was of reducing the bicycle rack parking.

Mr. Ward said that the four-story office building would require a lot of bicycle parking and staff and the applicant felt that that would exceed a rational number of bicycle parking spaces that would actually be used on the site. Staff has worked with the architect on the process and if they do find they need additional bicycle parking spaces they have expandable bicycle parking capacity. If they come in with 40 spaces and it is not meeting the demand they could expand it to 80 bicycles spaces.

Chairman Wittmann said that normally when a PAD application comes through it is for a specific use, site plan and specific deviations are justified on a plan. They are talking about 233 acres on which they do not have site plan, and no perspective users other than the office and LA fitness. Why are they processing a PAD application with deviations included for 233 acres?

Planner Ward said that the applicant could give them better perspective. Staff had requested that the applicant include the entire area in the PAD as they felt that the PAD and deviations were not that significant that they couldn't override the entire property. The applicant officially only needs it for the 1<sup>st</sup> 2 uses on the site which are the LA fitness and the four-story office building. He said that he had not been able to show them much in the way of the overall open space but there is a large corridor for walk ability throughout the site.

Commissioner Cavanee asked if the reduced size of the parking spaces was applicable to just the office.

Planner Ward said that was correct.

Commissioner Cavanee said that as more office related sites come in would they also have the reduction in parking.

Planner Ward said that was correct.

Commissioner Cavanee said that in terms of the covered parking component and he understood that it was conceptual; they are being led to assume that any time covered parking is imposed they will lose the additional trees and diamonds.

Planner Ward said they would not lose the trees, however the diamonds would not work with the canopy.

Commissioner Cavanee said that on the berms and screen walls which were going from 25% to 50% would those apply to mainly along the roadways to screen headlights from the roads.

Planner Ward said that it was really the other way around and was to screen the view of the parking lot from the streets. Any public street must have a minimum 3 foot screen wall within 75 feet of the Street. The intent is to give an opportunity for anything other than just a 3 foot CMU wall.

Commissioner Cavanee said that he understood staff was saying that only 50% of those areas within 75 feet have to have the berming or anywhere where you are within 75 feet you have the berming.

Mr. Ward said that anywhere you have a screen wall you can substitute berm landscape for the screen wall.

Commissioner Cavanee said that they were allowing up to 50% of that screening to be done with berms.

Planner Ward said that was correct.

Commissioner Bianchi said that with these development standards and potential of the PAD, what were the next steps for the continual development and what was anticipated to come back to the Planning Commission after the approval of the PAD, if approved.

Planner Ward said that there are conditional permitted uses in each of the districts and anything conditional would come back through the Use Permit process. Technically speaking if permitted uses came in such as offices retail and related uses it would go through the Design Review Board process.

Commissioner Bianchi said that was where his concern was, if they gave it the blanket PAD.

Chairman Wittmann invited the applicant to come forward.

Jim Rost, Nationwide Realty investors, Columbus Ohio came forward. Mr. Rost said that it was important to note that the site had one developer, Nationwide Realty Investors. What they were trying to do with the PAD was to create with the 3 or 4 items that they were talking about in terms of the zoning amendments was to create some continuity throughout the entire development and that is why they would like to see it applied to all 233 acres. The request of shortening the parking module from 63 feet to 61 feet and the parking stall depth from 19 feet to 18 feet would apply only to the commercial office use. There are 3 different zoning classifications for the 233 acres. Some of that development will be retail oriented and where there is retail development they will utilize the 63 foot module or 19 foot depth for the stalls. The

users of those spaces are much more familiar with the parking lot and do not need the same kind of flexibility that a 63 foot module would give them. They are trying to get the tenets of the buildings closer to the office space and convert some of that asphalt into green space. In the 1<sup>st</sup> development plan that they have submitted to the DRB review translates into the standard requirement for green space in a development like this for the Town of Gilbert is 18% open space. They exceed that with 22%. There are 2 objectives, one is to reduce the amount of asphalt and the 2<sup>nd</sup> is to create more green space by virtue of that and also to get the users closer to the building and get a little bit better density for the job creation site that the Master Plan for the Town of Gilbert contemplates for this site. That is what is driving the requests for the 61 foot module as opposed to the 63 foot module. The landscape exhibit that was shown by Planner Ward demonstrates conceptually what happens when you reduce that module and create the diamond shaped planning areas on the 12 space modules. Mr. Rost said that the 1<sup>st</sup> phase of the development is 126,000 ft.<sup>2</sup> commercial office building that has 625 spaces. Over the course of the entire development there will be more than 4000-5000 spaces so it has an impact on their ability to create the landscape environment that they would like to create for Rivulon. In terms of the landscape berming question, the Town requires that any time you have a parking lot adjacent to a public right-of-way that there is berming to accomplish 2 things. One is to hide the parking lot from the public right away and the other is to keep lights from the parking lot into spilling out into the public right-of-way. They are not suggesting that they change any of the requirements for berming for achieving that objective other than just changing the mix. The current requirement per code is 75% of the screen is a wall of some kind and 25% and earthen berm. Mr. Rost said that they would like to change that ratio from 75% wall and 25% berm to 50% wall and 50% berm allowing them to get more landscaping and have a greener environment. In terms of the bicycle parking the current code requires 1 bicycle space for every 10 parking spaces. Over the course of the development that will generate and need for a number of bicycle spaces that they believe the need is going to be. What they are asking for is a reduction in the retirement of one to 10 to 1 to 50. For the 1<sup>st</sup> development parcel that would translate to 12 bicycles parking spaces for that development. They have agreed with staff that they will create space to accommodate another 12 so there would be a total of 24 spaces available. If there is a need for more than that they will supply it because they are going to meet their tenets needs. To have 60 bicycles on the first phase of development it seems unrealistic that they would ever be realized so why create the hardscape it won't be utilized.

Vice Chairman Oehler said that in terms of the shade factor for the diamonds it doesn't realistically work very well.

Mr. Rost said that the current code requires an island every 8 spaces and what they are trying to do is go an island every 12 spaces and have a diamond every 6 spaces. This is about trying to create green spaces at the perimeter for the users of the office.

Vice Chairman Oehler asked if Mr. Rost had anything to show the commission as to how they were going to accomplish that.

Mr. Rost said that the 1<sup>st</sup> phase development exceeds the town's requirement for green space by at least 5%. The requirement is at 18% and they are in excess of 22%. Mr. Rost displayed the exhibit of the landscape plan.

Vice Chairman Oehler said that he understood the need to make more compact parking but he was also looking at them taking away shade from the internal part of the parking. He asked how they will be implementing these usable green spaces and asked Mr. Rost to point that out on the landscape plan.

Mr. Rost indicated on the exhibit the 4 story office building which is in the 1<sup>st</sup> phase of the plan. He noted that there was a really generous buffer around the perimeter of the building of 30 feet so they have created more green space at the building itself. On the northern edge of the parking lot there is an Aurora that is in excess of 4 acres of green space that is a site amenity for the users of the development. What they are trying

to do is condense the parking so that they can have significant green spaces that are amenities for the site and usable for the tenants of the site.

Vice Chairman Oehler said that he did not see any of the diamonds in the design.

Mr. Rost said that they had originally requested that they not put in diamonds in but subsequently agreed to put diamonds in.

Vice Chairman Oehler asked for more information about the covered parking.

Mr. Rost said that their standard office development will provide 5 to 5 ½ spaces per 1000 ft.<sup>2</sup> of commercial office and what they typically do is apply 20% of those spaces as covered spaces. In the plan that they were showing they were primarily going to exist on the South side of the building and on the East and West sides of the building. Sometimes users asked them to do more than 20% so they like to be able to increase that amount and have seen as much as 40% request for covered spaces.

Vice Chairman Oehler said that he was in 100% agreement on the berming mixture. His only concern was taking into consideration retention.

Mr. Rost said that they were considering that and were just looking for a little more flexibility to add some green areas at the perimeter when they can. That is their objective.

Chairman Wittmann said that it looks as though by the information provided in the packet that the deviation to the landscape islands is basically justified by providing additional landscaping throughout the entire site.

Mr. Rost said that to some minor degree that is correct. From their perspective the diamond shapes was just a way to get a little more compactness and try to put that into green space at the perimeter.

Chairman Wittmann said that what they have before them in their packet and what the applicant was stipulating to do not include the additional green space that they were talking about as justification. The stipulations refer to an Exhibit 3 and the packet does not have an Exhibit 3; it has an attachment 6 what they are at the calling the development plan. It is very vague and does not have anything to help justify the deviation that is being requested. The exhibits that were being shown by Mr. Rost were not even in their packets and this was the 1<sup>st</sup> time the Commission had seen them.

Planning Manager Linda Edwards said that the reason that staff brought forth the deviations and thought that they would be acceptable was because in the community they have received approval and support from the Planning Commission of large PAD's. Examples of those are Target, Walmart and recently Central Christian church. They have deviated from the 8 to 10 or 12 spaces between landscape islands. In this case they are talking about a very large employment center which is the growth corridor for Gilbert/202. There is a vertical overlay district therefore up to 11 stories. Miss Edwards said that with over 3,000,000 ft.<sup>2</sup> of office space on the one project alone that they will have garage facilities to accommodate even more. They felt that with this type of employment center that there would be pockets of green space appropriate between large users and that the parking deviations were similar to other approvals on large projects.

Chairman Wittmann said that she understood the concept but those were specific requests for specific development plans with specific plans that had been brought before them. This was 233 vacant acres and the request to deviate, from her perspective, was a little premature. She said that it was warranted in specific cases and specific reviews but on a blanket 233 acres with no justification or stipulations to provide anything additional she was having a difficult time with it.

Commissioner Cavanee said that he had done a fair amount of commercial developments and 12 spaces between islands is fair and reasonable. Adding the diamonds is a justifiable way to get a little more green scape. They are not ideal and he did not prefer them but he could see that they were trying to get a little more green scape and not give up parking. Commissioner Cavanee said that he can speak from personal experience that the market is moving towards a trend of density office space. In some of his buildings they were looking from 6 to 7 spaces per thousand. Mr. Rost is offering 5 – 5 ½ which probably wouldn't do for some of the spaces they're doing right now. Most are only offering 4. Commissioner Cavanee said that he believed they need more parking in today's world as they are using lineal benching and collaborative spaces and that is where the office market is going.

Chairman Wittmann said that it was not the 18 feet that she had a problem with and that was specific to the office, the remainder of the request was for the entire 233 acres. For specific users she didn't necessarily have an issue with it if there was justification but as a blanket she had an issue.

Commissioner Cavanee said that he did not have a problem with the blanket as they did that with Main Street Commons. They did a blanket over a very large site.

Chairman Wittmann said that they had a specific use for a mall.

Commissioner Cavanee said no, they had office, hotel and retail. It was very much a mixed-use, open ended PAD with very specific stipulations.

Chairman Wittmann said it had a lot more information, stipulations and plans that were approved as part of that process than what they were seeing currently. She was having a problem with this.

Commissioner Cavanee said that they had gone with 12 between with the developments that he had done and been satisfied with that. He said that Kierland Commons was 12 and there were no diamonds in most of that.

Vice Chairman Oehler said that he knew Kierland Commons and that was not 12. It was less than 12.

Commissioner Cavanee said that it was 12. They had gotten a variance and it turned out great.

Chairman Wittmann asked if there was anything that anyone else wanted to add.

Mr. Rost said that the reason that they wanted this to apply to the 233 acres was because they want to have continuity in the development plans for the entire site.

Planner Ward said that the two projects that they have dealt with so far have been excellent with the provision of open space.

Chairman Wittmann closed the public hearing.

Commissioner Cavanee said that in terms of the bike rack spaces he agreed that this was not necessarily a cycling destination but if necessary the applicant has said they will supply it and he believed that they would to meet their tenets needs. He said he would rather have landscaping than bicycle racks. In terms of the berms and the wall screening he was very much in favor of that and thought it was the right way to go to create more green scape and still achieve the screening that is needed. He said that he liked the landscaping against the building because it does soften the architecture.

Commissioner Peterson said that she agreed with everything that Commissioner Cavanee had said. She said that she was somewhat concerned about the decrease in the parking spaces but if the applicant is going to

only do the decrease for just the office and leave the retail at development standards she was okay with that. People pulling into the same parking space every day get used to it but for the retail they need the larger spaces.

Vice Chairman Oehler said that overall he sees the concept is a good idea. The issue he has is in condensing and creating more green scape, however, they are not holding them to it. They are just saying that they are going to do it. He said if there is a stipulation to be added that there is a percentage that is greater than he was all right with that. Then you are reducing the parking, creating it and held to a standard to get to. How that's created he would leave open to them. He said that he was okay with the berming but had an issue with the diamonds. Those trees in the diamonds die. As a use of getting more in there he was all right with it to get those percentages if they felt it was good for their development. He would like to see a stipulation for greater open space that they would have to hold two.

Commissioner Bianchi said that he shared Chairman Wittmann's initial concern when he saw the proposal based off of the PAD on the whole site and understood that it was a bit of a leap of faith. He said that with the staff review and future design review and with this being a true signature project for the Town he had no reason to vote against it.

Chairman Wittmann asked what was signature about it other than they have one developer.

Commissioner Bianchi said just the sheer size of it and the office component the employment component and the location.

Chairman Wittmann said that they have today one developer but in two years from now it could be sold off and parceled.

Commissioner Bianchi said that if the PAD is there that gives some level of assurance.

Chairman Wittmann said that the PAD deviations will remain intact but there is nothing in the stipulations that require a certain level of design and standards. These are basically development agreement stipulations that have been put into the stipulations and they are basically only stipulating them to one exhibit. She said that she believed there were people that knew a lot more about this development than they do and the future development plans that are planned for this particular area but the zoning isn't being changed so it is existing with what is there today and all they are seeing is the PAD amendment to decrease development standards but they have nothing to back up the development plan.

Commissioner Bianchi said that he would defer to those who are more expert in this area and if they were okay with it as presented or changes he would defer to that. This is not his forte. He said that he was relying on staffs review and based on future design review and this hopefully being a signature project and was putting it in their hands to deliver a good project.

Chairman Wittmann said that they had many issues with Main Street Commons. It is a great project but as far as the approval and documenting it through the Town there were great promises and great plans put in place with that overall approval but the Town was left without a lot to stand on when it didn't come through and other users wanted to develop. They were trying to protect what was promised to them but the Town of Gilbert did not have those stipulations in place to make sure that those standards were upheld. She said that is where she was having a problem. She had no issue with the decrease in parking dimensions or the 50% berming versus screen wall and the bicycle racks were not a concern to her. The overall landscaping and parking lot landscaping was a huge concern for her over 233 vacant acres. Typically on a PAD they see some sort of give-and-take and there is something that they were getting. The way it is stipulated currently she did not see that they were getting anything. Chairman Wittmann was having a hard time considering recommending approval.

Commissioner Cavanee said that he understood what chairman Wittmann was saying about the give-and-take. Often times they would see a concession in one area to accomplish something in another and they are not necessarily seeing much of that specifically. He said that at some point you take that leap of faith and they were getting a signature development in a key area of Gilbert.

Chairman Wittmann said that she did not see the signature development.

Commissioner Cavanee said that he believed it was going to be a very nice freeway frontage development that will be a signature for the community. He said that he thinks that is what they will get. It may not be typically what they're used to getting but he did not know what else they would want.

Chairman Wittmann said that a lot of times they get with PAD developments a landscape plan for the overall center that ties the unified theme in, ties trees and signage in and here they have nothing other than deviations to code.

Commissioner Cavanee said that is maybe what they propose, that they seal it in more of a master plan. That may not be unfair to see what the conceptual building layout might look like in the future. It would be hard to hold them to that at some point.

Chairman Wittmann said that at least you should have a master plan with landscaping along the frontage and along interior streets.

Development Services Director Kyle Mieras said that this was a large development that does have quite a bit of importance to the Town. When the Town Council entered into a development agreement in December 2012 they wrestled with the overall development plan for the entire 233 acres when they were talking through the development agreement. They talked through some of the zoning's on the property but knowing that it needs to be flexible and that there is no way just coming out of the economy that they just came out of that anyone was going to be able to lay out a development plan over that great an acreage. They wanted to leave it very flexible so they would be able to react to the market quickly. They wanted to put some things in place so that when there was a development ready to go things would be in place they could jump on and get buildings out of the ground quickly and so meet the demands of the applicant and get to the market quickly. The overall development will add 3.1 million square feet of office space to the Town of Gilbert which doubles what is in the Town right now. It is a large development that will develop over several years and the intent of the developer at this time is to use their experience and some of the things that they have done in the past and set their palette as they move forward. One of the things that were approved early on is design guideline that will be going forth to the Design Review Board. They will take a comprehensive look at the landscaping, plant palettes and the open space to make sure that there is a consistent theme and the open space is there. The Town is actually getting something out of the development for some of the deviations that they are providing. In the past they have talked about Main Street Commons and some of the deviations they had without a necessary overall site plan and they did the same thing at the Temple because they had some changes that they were looking for in the parking lot as far as drainage, grading and landscaping and didn't have an overall site plan. It was a smaller site obviously but they had the idea that they were going forward with and would be able to carry through with the Design Review Board. If you go to MD Anderson and look on the North side you will see diamonds that were installed with the 1<sup>st</sup> phase of that in order to keep the parking numbers high and also as they expand they would have the opportunity to get rid of those and not remove islands with larger trees. They have done some of those things in the past and feel very comfortable that as they move forward with the Design Review Board applications and the design guidelines that they will be able to uphold the standards that the Planning Commission is concerned with.

Chairman Wittmann said that she gets that they have a great user and that the land uses are there and that it will be a great gateway into Gilbert but the Planning Commissions job is to protect that and they are not protecting that in the document that they are currently being presented with. She said that was her concern; they were not documenting the project and substantiating the requested deviation in some manner. She said that knowing the problems they have had in the past she was struggling, especially when it references exhibits that are not in their packets.

Mr. Mieras said that he understood and that they struggled with how to build flexibility into PAD's without very specific site plans.

Chairman Wittmann said even general site plans, as they have nothing.

Vice Chairman Oehler said that he was in agreement with Chairman Wittmann.

Commissioner Sippel suggested that they put it to a vote to see who stood where.

Town Council Member Jenn Daniels said that she would like to touch on the development agreement because they worked long and hard on that. She said that just so they know, the building that is being proposed currently is a requirement of the Town in order for the applicant to fulfill their end of the development agreement. She said that she heard what was being said about the 233 acres and perhaps this application should have been limited to that specific building and LA fitness. The application is to fulfill the requirements that the Council has placed on them as far as the development agreement. They have required the office building within a certain timeframe. That is a requirement that the Town Council has placed. The applicant is who has come forward with the deviations. The Council has also seen conceptual site plans for the entire project and feels very comfortable with moving forward. This will come to Council so the Planning Commission needs to make the decision that they feel is in the best interest of the Town and the Council respects that opinion.

Chairman Wittmann said that the development agreement is something that the Commission is not a party to and which is not part of this and if they looked at specifically the office building and the deviations they could probably get pretty comfortable with it. She was having an issue with everything outside of that box and deviating 233 acres on which they have nothing. Maybe the office building and the LA fitness substantiates the deviation but in her opinion the rest of it doesn't and that is why she was struggling.

Commissioner Cavanee said that he appreciated the chairman's comments but he was ready to vote.

**A motion was made by Commissioner Brigitte Peterson and seconded by Commissioner Kristofer Sippel that for the reasons set forth in the staff report move to recommend approval to the town Council for Z13- 3 as requested subject to the conditions listed in the amended staff report that was currently given to the Planning Commission.**

**Motion carried 5 -2**

**Aye - Commissioner Brigitte Peterson**

**Aye - Commissioner David Cavanee**

**Aye - Commissioner Anthony Bianchi**

**Aye - Commissioner Kristofer Sippel**

**Aye - Commissioner Chad Fuller**

**Nay - Chairman Jennifer Wittmann**

**Nay - Vice Chairman Joshua Oehler**



For the following reasons: the development proposal conforms to the intent of the General Plan and can be coordinated with existing and planned development of the surrounding areas, and all required public notice and meetings have been held, the planning commission moves to recommend approval to the Town Council for z13-33, a request to remove an approximate 18 acre area of shopping center (SC) from the section of Gilbert and Pecos planned area development (pad) overlay zoning district, and rezone an additional 215 acres of land from 69 acres of regional commercial (RC) and 146 acres of business park (BP) to 18 acre of shopping center (SC), 69 acres of regional commercial (RC) and 146 acres of business park (BP), all with a planned area development (pad) overlay zoning district, subject to the following conditions:

- a. Dedication to Chandler for Gilbert Road, and dedication to Gilbert for Pecos Road and Lindsay Road rights-of-way that are adjacent to the property **and are owned by Nationwide Realty Investors, LTD. Or NRI-Rivulon, LLC (collectively "NRI"** shall be completed either prior to the effective date of this ordinance or as determined by the Town Engineer. Failure to complete dedication **of lands owned by NRI** prior to the effective date of this ordinance may result in reversion of the zoning to the prior zoning classification. **Dedication of all other portions of Gilbert Road Pecos Road and Lindsay Road rights-of-way shall be made in accordance with paragraph 4.3 of the Rivulon Development Agreement.**
- B. Dedication of Gilbert Road right-of-way shall extend 70 feet from the center line along the western boundary of the site. Dedication of Pecos Road half street right-of-way shall extend 70 feet from the centerline along the northern boundary of the site and dedication of Lindsay Road half street right-of-way shall extend 65 feet from the centerline along the eastern boundary of the site. Additional roadway dedication may be required at intersections.
- C. Dedication to Gilbert for Rivulon boulevard right-of-way within the western approximate 1,800 feet of the property, including the traffic circle, shall be completed prior to the issuance of a certificate of occupancy for the phase 1b 4-story office building. Rivulon Boulevard shall extend 80 feet (full right-of-way dedication) and a traffic circle width as determined by the town engineer, and shall be in compliance with the Rivulon development agreement. Dedication of the remaining portion of Rivulon Blvd. Located from immediately east of the traffic circle and extending to Lindsey road shall be provided with each subsequent phase of development or as required by the town engineer and in compliance with the Rivulon development agreement.
- D. (i) Construction of the initial public improvements (as that term is defined in the Rivulon development agreement) to Gilbert Road shall be constructed in accordance with paragraph 4.4 of the Rivulon development agreement.
- (ii) Construction of off-site improvements to Pecos Road adjacent to ~~the property shall be completed prior to issuance of a certificate of occupancy or final approval for any building constructed on any of parcels b, c, or d as depicted on exhibit a to the Rivulon development agreement.~~ **Blocks B, C or D of the property as depicted on exhibit A to the Rivulon Development Agreement shall be completed prior to issuance of a certificate of occupancy or final approval for any building constructed on the respective adjacent block, subject to the ownership provisions set forth in section 4.3 of the Rivulon Development Agreement. If development of block C or D occurs prior to development of block B, construction of off-site improvements to Pecos road shall include improvements adjacent to block B. and**
- (iii) Construction of off-site improvements to Lindsay Road adjacent to ~~the property~~ **Blocks D, H or M of the property as depicted on Exhibit A to the Rivulon Development Agreement** shall be completed prior to issuance of a certificate of occupancy or final approval of any building constructed on ~~any of parcels d, h, or m as depicted on exhibit a to the Rivulon development agreement~~ **the respective adjacent Block , subject to the ownership provisions set forth in**

**section 4.3 of the Rivulon development agreement. If development of block H occurs prior to development of block D or M, construction of off-site improvements To Lindsay Road shall include improvements on Lindsay Road adjacent to block D or M.**

- E. Construction of off-site improvements to Rivulon Boulevard from Gilbert Road to the traffic circle shall be completed prior to issuance of a certificate of occupancy for the phase 1b 4 story office building on the property, or as determined by the town engineer, and shall be in compliance with the Rivulon development agreement. Rivulon Boulevard from the traffic circle eastward to Lindsay Road shall be as provided with each subsequent phase of development or as required by the town engineer, and shall be in compliance with the rivulon development agreement.
- F. Prior to the effective date of this ordinance, developer shall enter into a development reimbursement and lien agreement agreeing that developer will reimburse Gilbert for the costs of design and construction of off-site improvements required by this ordinance if Gilbert constructs the improvements as part of its capital improvements program. Failure by developer to execute a development reimbursement and lien agreement may result in reversion of the zoning to the prior zoning classification, except any parcel or portion of the property on which construction of improvements has commenced pursuant to duly issued building permits. If developer constructs the improvements, Gilbert shall release developer from its obligations under the development reimbursement agreement.
- G. At the written request of gilbert, developer shall dedicate all necessary easements for the roadway improvements, including easements for drainage and retention and temporary construction easements **when and** as specified in the Rivulon development agreement and in compliance with Town of Gilbert construction standards. ~~Failure to dedicate said easements within thirty (30) days after the date of Gilbert's written request may result in the reversion of the zoning of the property to the prior zoning classification.~~
- H. Developer shall create a property owner's association (poa) for the ownership, maintenance, landscaping, improvements and preservation of all common areas and open space areas, and landscaping within the rights-of-way, with the inclusion of additional parcels ~~at the time~~ **within 30 days** of submittal for construction documents for those properties.
- I. The project shall be developed in conformance with Gilbert's zoning requirements for the zoning districts and all development shall comply with the town of Gilbert land development code, except as modified by the following:

Development Standard	Rivulon PAD
<i>Minimum Dimension for Parking Lot Spaces and Drive Aisles:</i>  <i>Office Uses</i>	18 ft. deep, 9 ft. wide and 25 ft. drive aisle width
<b><i>Parking Lot Landscaping:</i></b>  Parking Lot Landscape Islands	One (1) parking lot landscape island shall be placed a maximum for each 12 consecutive parking spaces;

Landscape Diamond Planters	One (1) 6 x 6 ft. landscape diamond planter shall be placed a maximum of 1 for each 4 parking spaces, situated between parking lot landscape islands.
<b><i>Landscaping and Berming for Parking lot Screening:</i></b>	
Parking Lot Screen walls	50% of the length of parking lot CMU screen walls may be substituted by landscaping and/ or berming.
Parking Lot Landscape Islands	One (1) parking lot landscape island shall be placed a maximum for each 12 consecutive parking spaces.
Landscape Diamond Planters	One (1) 6 x 6 ft. landscape diamond planter shall be placed a maximum of 1 for each 4 parking spaces and situated between parking lot landscape islands.
<b><i>Bicycle Parking:</i></b>	
Bicycle Parking Standard	1 bicycle space per 100 vehicle parking stalls; to a maximum of 50 bicycle spaces

**GP13-07 - Major General Plan Amendment to change the land use classification of approximately 54.74 acres of real property generally located at the southwest corner of Higley Road and Riggs Road from Regional Commercial land use classification to Residential > 2-3.5 Dwelling Units/ Acre land use classification.**

Senior Planner Al Ward stated that GP13-07 was a request to amend the current General Plan for 54.74 acres gross from Regional Commercial (RC) to Residential 2-3.5 dwelling units an acre. Known as the Greer Town Center previously, the zoning that is being requested by the General Plan Amendment would equate to SF-7, SF-8, SF-10 and SF - 15 zoning district. The 54.74 acres is located at the Southwest corner of Higley and Riggs Roads. It is surrounded by Country Shadows to the North, Acacia to the South and a church site to the West with neighborhood office and to the East is a 20 acre Shopping Center (SC) commercial site and on the northeast corner is a 5 acre Community Commercial (CC) site with Seville to the Northeast from there. Planner Ward displayed the overall site plan and indicated the locations of all the surrounding uses. There is a dairy operation currently on the site. One mile to the North there is a 50 acre commercial site that is known as the Fry's Marketplace Center and to the West along Riggs Road there is a 17 acre CC site at Val Vista Drive and everything else is residential or currently maintains an agricultural use. This case has been before the Planning Commission previously and was annexed in 2003. The applicant, Vestar in 2003, had requested that the site go to General Commercial (GC) and that the General Plan be amended to accommodate a commercial retail center under the ULDC. Vestar entered into a development agreement with the Town of Gilbert in September 2007 and the developer submitted an overall development plan for Greer Town Center containing 475,000 square feet of commercial on 49.3 acres. There were two majors, in-line shops and 9 PAD sites. The project did not proceed at that point.

Planner Ward stated that the case had been sent out to the reference agencies, 60 day review process and no adverse comments had been made. The Santan Character Area and Economic Development do not support

the request to amend the General Plan. The public inquiries generally support commercial use. What staff is hearing is that they are a full 7 miles away from other significant commercial areas which is a 15 mile round-trip for them. The Chamber of Commerce has not come out with a recommendation either way. They have basically asked if there is any alternative non residential use or can the site be reduced in size. Planner Ward displayed an exhibit which indicated all of the Vestar locations in the area. He stated that staff does feel that the site has bigger opportunities than the applicant has indicated by stating that there is not much of a population base or much traffic. Staff believes that South Gilbert does have potential growth as population will double and has great accessibility. With the analysis that staff has done they do not feel they could support this application and recommends denial. In general, it is premature to say that there is no opportunity at this point in time for a Regional Commercial power center at that location.

Chairman Wittmann said that staff was not supportive of removing the RC designation altogether and replacing it with SF residential. She asked if staff would be supportive of just maintaining some of the commercial.

Planner Ward said that the applicant has not indicated that they would be willing to budge on the request to rezone the entire area. If there were a shrinking of the big-box sizes and erosion of economic retail sales due to the Internet or other centers in the area, staff could foresee a reduction in parcel size, perhaps to a smaller RC center that comes in at approximately 28 to 30 acres. Planner Ward said that they have really not gotten deep into those discussions with the applicant.

Chairman Wittmann invited the applicant to come forward.

Ralph Pew, Gilbert, AZ came forward as a representative for the applicant. He noted that Ryan Desmond from Vestar as well as a representative from Toll Brothers was also present. Mr. Pew stated that this was not a case of a speculator coming in and buying ground and hoping for the best and finding an opportunity when the residential market starts to peak to sell the land. He referred to the exhibit that staff displayed that indicated all the Vestar sites in the Valley and the 7 ½ miles from the subject site to others. He said that was exactly what they thought in 2003 and when it was zoned and when they planned it. It was all residential until then. This land has always been residential under the Santan area plan. That spacing is exactly what the spacing was for the big box users in the early 2000's. Mr. Pew said that his guess was that if the referendum had not been filed and a year and a half was spent on that it is very likely that this site would have been built as one of the last projects in the heyday. In those days the big box users were not worried about profits, they were worried about gross sales. He noted that this was not a cyclical change and that there were no big box users coming to this site. Vestar has developed two of the three power centers that exist in Gilbert. There is the mall, Power Road and the freeway and Gilbert Road and the freeway. If any users were coming to the subject site they would be users that either Vestar has in those two centers or that Westcor has in the mall site. They are not coming here. This site will not function as a RC center. Mr. Pew displayed two letters of support from Taylor Morrison to the West and TW Lewis to the South. A graph was displayed indicating the population located at Santan Village, Gilbert Gateway and Crossroads Town Center which are the three power centers along the freeway. They all have 600,000-700,000 people within a 15 minute drive to those sites and that is why they work. He indicated Queen Creek Marketplace on the graph and noted that it was a very underperforming center. The reason is because the people who live within 15 miles currently only amount to a little over 200,000. In approximately 2018 that number might reach 300,000. He noted that there were approximately 200,000 people within a 15 minute drive of Riggs and Higley Roads. He said that in 2018 it would slightly increase a few thousand people. In the General Plan the Town is estimating approximately 110,000 residential units at build out for the entire Town of Gilbert. That translates to somewhat over 300,000 people in the entire town. If all of the people in Gilbert now and projected in the future all live within 15 minutes of Riggs and Higley that would still only be one half of the people that it takes to make a power center work. It just does not work and the big box users are not looking at this site anymore and it is off the radar to them. Mr. Pew said that there is the question of e-commerce and where it is headed. He displayed a chart and noted that The US Department of

Commerce projects that e-commerce will get to 30% of all retail sales by 2035. Over the Thanksgiving weekend e-commerce was up 13% over last year and 41% in online sales. He noted that people who purchased goods on their mobile device was up 40% over the past Thanksgiving holiday. Mr. Pew stated that if traffic was maximized to its ultimate potential, according to the town's General Plan, they are still well under all of the traffic counts from other power centers. Mr. Pew stated that the site was residential from day one and changed over 10 years ago. When the Santan area plan was adopted it was all residential. Before Seville was even built it was all residential. He noted that Seville was built for people who wanted to get away from everything and that there was no place to shop when Seville was built. He found it hard to accept arguments from people who live in Seville that they need shopping there. Their need for shopping is a burden for the applicant to carry on a hope that someone will come along and use the land in a way that they would like to see it used. That has never been the pattern for economic development or commercial uses in the Town. Mr. Pew said that in terms of hierarchy of retail format and what has worked over the years and the retail sector and why has it been sustainable for decades at a time is enclosed or open malls, 100 acres or more is generally a good rule of thumb. Regional power centers, 25 to 50 acres. Grocery anchored centers are 10 to 12 acres. Drugstore and specialty centers are 3 to 5 acres. That is what works. There are outliers such as Kierland Commons which is beautiful and well executed. That is an outlier from the most typical retail uses. The key ingredient to an outlier is unique topography, unique demographics, great traffic patterns or a great unique market. If you have any one of those ingredients and own a piece of land and want to try something new that is where you try it. You do not try something new at Riggs and Higley, a piece of land that is totally and completely unremarkable and has 180° market radius. Mr. Pew said that if the Planning Commission cannot see their way clear to amend the General Plan of the Town and remove all 54 acres from Regional Commercial his thought would be that since there are 20 acres to the East of them and 5 acres to the North of them on the very corner, the possibility could exist that a grocery anchored center may someday work there. That means somewhere between 8 to 12 acres could be saved as commercial and developed. Fifteen to 18 acres used to be a grocery anchored center but that is when drugstores took the corner site and grocery stores did not have pharmacies. Ever since the advent of pharmacies within grocery stores, the drugstore on the corner will not locate on the corner if there is a pharmacy in the grocery store. That is why grocery anchored centers have shrunk to 8– 12 acres. Mr. Pew said that he would like the Planning Commission to revert the zoning back to the residential that it was from the very beginning, however, if they cannot do that he asked that they please do not arbitrarily find a number because any number beyond approximately 12 is a pure unadulterated guess and predicated upon a hope for something to happen in the future that no one can define today. Mr. Pew said that he did not think that it was fair to tell Vestar to just hang on and wait. He urged the Commission to vote for approval but if they could not do it to please leave them 8 – 12 acres and they would live with that and try to make it work. In the interim they would bring more houses to the area which will then increase the chance of commercial happening.

Commissioner Bianchi asked to see the exhibit shown previously that showed the trade area and the 15 minute drive. He noted that Mr. Pew referred to a stat that said the entire population of Gilbert, even at build out, would be around 300,000. He asked how you get 700,000 people within that 15 minute drive time if they are not close to build out yet and how many of the people were double counted in the market area.

Mr. Pew responded that the one word answer would be Freeway. The two word answer is Mesa/Gilbert. People do not care about city lines when it comes to shopping. It is not a concentric circle any longer as it used to be when there weren't freeways. With the advent of the freeway the 15 minute drive now looks like a star.

Commissioner Sippel said that he had to think that 10 years ago when Vestar purchased the property they had those similar numbers so why was it okay 10 years ago and not now.

Mr. Pew said that in those days almost anything worked because the big box users did not care or focus on profit. They focused on gross sales. That is what drove everything.

Commissioner Fuller said that he didn't think it was unfair to tell Vestar to just hang on and wait. They were not in the business of making planning decisions just for today and had to take a longer view as a Planning Commission. He said that Mr. Pew's argument was not that it was a little while longer but that it was never coming. He asked if that was accurate.

Mr. Pew said that many times the applicant is criticized because they just want to take advantage of today's current market whether it is residential or commercial. In this case that is not the issue; this is a systemic, fundamental problem that will not get cured over time. If things were different they would build this, if they had tenants that would come.

Commissioner Sippel said if they go down another road of 10 – 12 acres by 8 acres would Toll Brothers be able to make that work.

Mr. Pew said that they would be able to make that work and that it is right on the border between what can be a sustainable community and what can't and that is achievable.

Commissioner Cavanee said that he hears the story about how Internet is taking over and brick-and-mortar is going down and that Mr. Pew had made some persuasive comments about that. However, Vestar just purchased \$700 million of open-air retail in the last three years.

Mr. Pew said that since the General Plan Amendment was for 55 acres from RC to Residential the Commission can make a recommendation on something less than that. They cannot make a recommendation on more than that. He suggested that if they get to that point, rather than design it, they could call out a number of acres in a semi-circle because no one knows today exactly if it will be 600 feet on Riggs and 500 on Higley or vice versa. They just need a designation of how much it is and when the residential develops it will frame that and they will know what is left. That is the best way to do that.

Chairman Wittmann commented that at that time they would invite the citizens who wished to speak on the item to come forward.

David Hackmack, Gilbert, AZ came forward in opposition to the project. Mr. Hackmack said that he lived in the vicinity of the project. He said that this would only increase the need of commercial support in that area. If they don't do anything in that area, what about the infrastructure needs such as roads, etc? If they increase traffic they are going to increase the usage pattern and wear and tear on the roads.

Commissioner Wittmann asked if Mr. Hackmack would be in support of a potential reduced amount of commercial that the applicant offered up.

Mr. Hackmack said that if there was some amount of commercial retained that could be workable. The challenge is that the percentage that would be left would make it questionable as to its real value to the community. He said that they have a grocery store but they do not have any other type of shopping such as restaurants, etc.

Sean Miller, Gilbert AZ, came forward. Mr. Miller said that he lived in southeast Gilbert and was opposed to the project. He said that he has lived in the area for 6 years and has not seen advocacy for an issue like he has seen about this. He noted that the Lowes at Queen Creek and Higley is one of the top Lowes in the state so he thought that there was opportunity with the buying power in the area. Mr. Miller said that there was an extreme amount of advocacy for this acreage to remain commercial. He said that in talking with the Greer family he knew that they were on both sides of it to because when this plan was acquired or sold it

was sold with the notion of it being commercial. He says that there are areas that have had success that are off the freeway with strong buying power. He noted that they have the Bridges at Gilbert, Marvella Vineyards and Taylor Morrison which is not yet done building. There is also Basha high school which is in close proximity to the subject area. A reduction in size of the project might not be something that adds a lot of value. Mr. Miller said that there was a lot of talk in favor of some fine dining restaurants, Sprouts, Trader Joe's, etc.

Larry Hyde, Gilbert AZ, was in opposition to the item but did not wish to speak.

Gena Mabee, Gilbert AZ, came forward in opposition to the project. Ms. Mabee said that she had been a resident in Seville for two years. She noted that the presentation given by the applicant suggests that they didn't have a crystal ball before but now they do. She noted that it is been a long known fact for many years that more than 80% of money that goes out of households goes through a woman decision-maker. Ms. Mabee said that she was an e-commerce and Internet shopper and does it to save gas because she has to go 20 miles for shopping. She noted that if they took a look around the surrounding neighborhoods where the site is located they would see that it is populated by many millionaires. She noted that she participated in social media and that 16 out of 18 wanted to put a halt on changing the zoning designation back to residential. She suggested that they leave some of the acreage around the church building but they really need a huge chunk of land. She said the rest of the commercial sites are nothing like this on that beautiful corner. She said that they want to keep the business right in the area so that their children will have a place to work and they can have a place to patronize without having to fight traffic.

Justin Michael, Gilbert AZ, came forward in opposition to the request. Mr. Michael noted that he lived very close to the corner that was being discussed and moved into Seville approximately 3 ½ years ago. He noted that all around them there are houses being built with very little commercial being built to support the population. The corner that has been referred to is a straight shot down Higley to the 202 and is very easy to access although time consuming. Mr. Michael said that if this site is turned into residential as well there will just be a huge sea of residential with no commercial viability for any of it. He said that they weren't there to talk about whether or not this was good for Vestar but rather whether or not it was good for the Town of Gilbert. He said it was very important for the land to stay commercially zoned.

Aleen Simms, Gilbert AZ, was in opposition to the case but did not wish to speak. Her comment was that there are plenty of homes in the area. Commercial zoning will lead to excessive jobs nearby and easier shopping.

Bill Brothers, Gilbert, AZ came forward in opposition to GP13-07. Mr. Brothers stated that he lived in Seville and allowing commercial development of the land would certainly improve home values and make it a more desirable place to live. He noted that the commercial space at Riggs and Higley is unique in the area as there is no other Regional Commercial (RC) nearby. He said that if a mistake was made there, it cannot be undone. Mr. Brothers said that he was somewhat disappointed to find out that the parcel was originally zoned residential. What was the plan originally for commercial in that space? He said that they are underserved commercially in that area and have about a quarter of the retail available in South Gilbert. South Gilbert is a retail desert. He said that there is some retail zoning but it is scattered and placed in small parcels and the only thing that you'll ever see is gas stations, grocery stores and banks. Mr. Brothers displayed a zoning map that had been color-coded to display the various zoning districts in Gilbert. He noted that taking Germann South you would see only one commercial site and rezoning that would not make it better and there would be no Regional Commercial South of Germann. If the 54 acres is taken out where can they get it back in that region? Mr. Brothers said that zoning commercially doesn't guarantee that you have commercial development; however, if you zone it residential that makes it impossible for that to happen. He said that it has been stated that there was not enough traffic to sustain a Regional Commercial center and that may be true today but is that always going to be true? He asked if the Commission could guarantee that there would never be a regional highway, south. He said there was

already a spur going down to Mesa Gateway. He displayed an exhibit that showed the area that the commercial center serves at Higley and Riggs and noted that it was huge. Because transportation in the area is not sufficient you do not have as much overlap from the other commercial centers and because they are isolated they can support a smaller number than 700,000. Perhaps 300,000 would be adequate. If 177,000 population in Lafayette Indiana can support three Walmart's 300,000 would support one Mr. Brothers said what about a themed area such as a Trader Joe's, Whole Foods, Crate & Barrel and things like that with perhaps farmers markets to generate traffic. A viable commercial center could be created in the South Valley. He said that the demographic in the area was many new homes which had been purchased after the recession so those people were generally employed and had survived the recession and were in pretty good shape. They are affluent, employed and have good credit so you couldn't ask for a better demographic than that.

Chairman Wittmann invited Mr. Pew backup to the podium.

Mr. Pew said that everyone that was present was boxing at shadows and who wasn't in the room were the owners of Trader Joe's the owners of Brio and the owners of Macaroni Grill. For every restaurant and store that they wanted in that area, the people who made the decisions about those enterprises were not in that room with them. He said they can do all that they want to do but until the people who make the decisions are present and decide what to do nothing happens. Nobody wants restaurants and retail more than Vestar. Mr. Pew said that in terms of the nice lady and gentleman who spoke about the wonderful demographics, if it were wonderful demographics the restaurants would be there. When was the last time that anyone saw any of the restaurants stand alone on a 55 acre site? Those stores and restaurants only locate where there is a center and where there is synergy of other uses. They are just kidding themselves. Mr. Pew said that nothing that any of them do is going to make one iota of difference to the people who build and who come. He asked that the Commission give them a chance to do something as not doing anything and denying the General Plan Amendment and leaving it a dairy does not solve any problem. How does that help the Town? How is that in the best interest of anybody? Mr. Pew said that they could tell Vestar to just sit on it and the same people will wish and hope and want for restaurants that will not come because without a shopping center that creates the reason for people to go there no restaurants come. It is that simple. What about the land owner? Where does the land owner fit? What is good for Gilbert is good planning and that corner already has three corners of commercial. Leave 5 on one, 20 on another. Every use that was talked about can all be built on the 20 acre site that is there plus more. Leave the applicant 10 or 12 and the world is not going to come to an end and Gilbert will go on and it will be fair land use planning and they won't be strapping one land owner with the hopes and dreams of people who move to a place and want someone to provide for them.

Commissioner Sippel said when they spoke about Regional Commercial staff had designated so many acres for that. He asked staff how many acres that was.

Mr. Pew said that typically power centers are somewhere between 25 at the low-end to 50 acres in a mid-range.

Commissioner Sippel said that currently there is 5 to the Northeast and 22 the Southeast.

Chairman Wittmann closed the public hearing.

Commissioner Fuller said that from time to time they see a request for a rezone from commercial to residential. Whenever that happens, the question that comes to him, is that is there something specific about the contour or topography or some unique site characteristic that makes the site inherently incompatible for commercial use such as a canal runs through it, no frontage on a main road or it just wasn't planned properly the first time. If that answer is yes, he considers the amendment. Commissioner Fuller said that he did not see that here. The next question would be does the data support commercial use at that location. The



applicant gave a compelling argument as to why it would not work even in 50 years. He said that he would be more in favor for voting for the General Plan Amendment as proposed by the applicant then he would for voting no. He would be more in favor of converting all of the acreage to residential then to leaving it all commercial. However, if they felt there was some way that they needed to carve out a certain amount of acres around the commercial corner, 8 or ten acres or something like that, he would not be opposed to that. The data provided made sense to him and leaving it as a power center did not seem feasible to him.

Vice Chairman Oehler said that he had friends in Seville himself and in taking a little straw poll from them about what is needed, the same comments were made that were brought forth from other citizens who live in the area, that they need restaurants and shopping. He said that he leaned toward the presentation from the 2<sup>nd</sup> citizen where they had more of the circle of influence and not the star of influence. If you are driving you more want to be within your community and will surpass others, to get those drive times of that star you are passing other centers. If you drive down the 202 every two or three miles there is another major power center so those numbers don't really jive for him. He said that with the 20 and the 5 if they could carve out another piece they can create a synergy there. He said he didn't know what the magical number was but in doing that would allow for some synergy in that area and have some shopping and restaurants. Restaurants always want to be next to other restaurants. Retail is going to smaller boxes and if they do that they could get a Trader Joe's at 10,000 ft.<sup>2</sup> and next to it a small neighborhood Walmart. He was not in favor of giving up all of it but was in favor of carving out something that made sense.

Commissioner Sippel said that Vestar has a huge issue if e-commerce keeps going that way. That should be scary for Vestar. He said that he was excited that the applicant came back with carving out a section and that it was a good happy medium. He said that he was going to put forward a number of no less than 9 acres just to start the conversation. He said that that would put them at around 35 acres of Regional Commercial area there. That would get them a couple of restaurants on one side and the 20 acre piece could be an anchor parcel for the corner and they can build off of that.

Commissioner Bianchi said that the presentations were convincing both ways. He noted that he probably has four or five Walmart's within a 15 minute drive but he goes to the one that is closest just based on convenience. He said that he believed that would be the case if this site ever developed. However, Vestar tells them that they work with the retailers and they say that it is probably not going to work at this location. Commissioner Bianchi said that it was not his place to tell them how to develop their parcel. The other message that he was getting was that they are saying they do not want to market this parcel anymore but at the same time they have a voter approved General Plan saying that retail employment is preferred at that spot and Town staff saying that they want to keep it. Economic Development and the Planning and Development folks are saying that they would like a shot and perhaps they could work with the brokers and market it down the road. If they go with housing at this point they would be taking the easy way out as they know that works. As the last speaker said, once this is done it can't be undone. When looking at other areas such as Maricopa, Casa Grande and Flagstaff they do not have a quarter of a million people within 10 to 15 minutes like this site will and yet they can make those power centers work. Commissioner Bianchi said that he was not ready to give up this parcel and that he believed this area was half developed. He said that he believed they still have a marketable area that is going to need services and that he was more likely to support denial at this point.

Commissioner Peterson said that she agreed with every point that Commissioner Bianchi made. She thanked everyone for the excellent presentations.

Commissioner Cavanee said that at the study session he was the one who recommended that if a 55 acre parcel did not work then perhaps something less would be more palatable to him. He said that he believed some Commissioners join him in that thought so he appreciated seeing that there was that offer on the table. He said that he also appreciated the other Commissioners thoughts about not being ready to give up on it yet. Having worked with a developer for years he understood that owning land when you are not able to do

what you want with it is a hard thing to do. Part of the Planning Commission job is to safeguard the integrity of the General Plan. Commissioner Cavanee said that he was inclined to join the camp that would agree to partition a portion of it out but he was not ready to set a number as he did not think that was fair for him to establish that number. What would be better for him would be to actually look at comparable properties with comparable services to determine what the right sizes are. Maybe it is 8 to 12 or perhaps it's 15, 18 or 20. Before they set an actual number he would expect that they did a little more research. He said that he was in favor of the partial.

Chairman Wittmann commented that all of the presentations were excellent and convincing on both sides. She said that she felt that a 54 acre RC center probably isn't the best use for that particular property and will not be developed at that acreage; however, she did not feel that they should give up entirely on the commercial and that there is a portion of it that is still feasible.

Commissioner Fuller said that it may be helpful to talk with Mr. Pew. He said that there were several ways that they could go, one being a continuance so that they could get more information which would certainly be the safe approach. Another option is to pick a number and punt it to Council; however, he did not ever remember doing that on a Major General Amendment. Whatever number they decide upon they should talk with the applicant first.

Chairman Wittmann said that the applicant had already offered a number of anywhere from 8 to 12.

Commissioner Bianchi asked if the benefit would be that they keep it 8 to 12 acres of RC across the street from 20 acres of Shopping Center. He said that it would not make sense to be across the street from a less intense zoning district.

Commissioner Cavanee commented that he built a church on 5 acres so he was concerned that 8 acres was not even close to what it should be and was not even sure about 12. He said that it concerned him because they were trying to set a number when it had not been defined yet what they want to see there. He said that he felt that they should actually look at other relevant properties to see what works.

Commissioner Fuller said that was a very fair comment. He asked if Commissioner Cavanee was thinking along the line of that this was really the charge of the Planning Commission and don't kick the can down the road to Council. Continue it a month, have staff look at it and bring something back.

Commissioner Cavanee said that he would defer to those who have been on the Commission much longer than he but if that is the way it has to work in order to get to the right number, then yes. They could make a motion that leaves that open for finalization afterwards. They do not necessarily want to leave that for staff to wrestle with.

Chairman Wittmann said that she thought that they would need to make a recommendation with a specific number and then once it got to Council they could then take that number and modify it or approve it or whatever they needed to do.

Commissioner Fuller said the issue with that was in getting the number and if Council were to ask where they came up with that number.

Chairman Wittmann said that generally grocery anchored centers are anywhere from 10 to 15 acres in size. If the applicant is offering 8 to 12, 12 would be a happy medium for a grocery anchored center.

Vice Chairman Oehler said that he was more looking for something complementary to the 5 and 20 but they did not know what the number should be until they have some kind of research. It needs more thought given to it before they randomly pick a number.

Planning Manager Linda Edwards commented that this was a Major General Plan Amendment and does have some parameters that need to be met. One of them is that they hold two public hearings which have been done. Another is that all Major General Plan Amendment's must be presented at a public hearing to the Town Council during the calendar year. This was scheduled for December 12, and has already had an official request to continue it to December 19, for the Town Council. Even though the Commission might not be able to clearly identify a recommendation they can give it some parameters to have a worthy discussion at the Town Council. They do need a recommendation from the Planning Commission as they must hold a public hearing with the Council before the end of the year.

Commissioner Cavanee said that if they have to have it his number will be 15 which was not based on anything.

Commissioner Bianchi asked if it was shortsighted of him to look at this and say that for the last 4 months they have been dealing with this one single proposal of 54.74 acres and now they are going to try to change that and try to pull a number out to advise the Council. He said that they should probably look at what had been presented to them consistently for the last 4 months and say they are either for the change or against the change and if Council wants to take up that discussion within the calendar year they can.

Chairman Wittmann said that she did not know if that was entirely fair because they get a lot of applications where they come forward with the proposal and there is either opposition from staff or neighbors and so it is continued and the applicant comes back with an amended proposal.

Commissioner Bianchi said if that is what the Commission wants to do that is fine but that he would have a hard time supporting a random number reducing RC because he was not sure what other smaller viable acreage they have for RC, especially at this location. He said that it would be hard for him to support that.

Commissioner Cavanee said that the applicant had offered it and from what he was hearing he thought that they supported that as a group so if it is just figuring that number and they need to do it to honor the deadline then he was willing to help honor that deadline and come to some reasonable amount. He said that he came up with the number of 15 due to his experience doing commercial development.

Commissioner Fuller asked how Commissioner Cavanee felt about 12 acres. He said that was based on what the applicant said that they could make work.

Commissioner Cavanee said that his impression was that it was a hair too small. He said that he was looking at the 20 acre parcel across the street and if they were to somewhat mirror what they have there they were probably fair at 15. If they tried to keep a relative magnitude across the street, 15 might be the right number.

Vice Chairman Oehler said that he was leaning towards 15 as well.

Commissioner Sippel said that he agreed with Commissioner Fuller about going with 12 because what was the point of sending something that was not going to work for either one now.

Vice Chairman Oehler said that he would definitely not go with 8.

Chairman Wittmann asked Mr. Pew to give thumbs up or thumbs down on the 15.

Commissioner Sippel said that it was 12. He said that he did not want to send something to Council that wouldn't even work for the applicant.

Mr. Pew said that for the purpose of moving the case forward, notwithstanding that he disagreed with the staff's interpretation of the statute, he asked that they please move it forward. He said that they prefer 12 but if they have to do 15 to move it forward they should.

**A motion was made by Commissioner Chad Fuller and seconded by Commissioner David Cavanee to recommend approval to the Town Council of GP13-07 Major General Plan Amendment to change the land use classification of 50.74 acres with the exception of 15 acres of real property generally located on the southwest corner of Higley and Riggs Roads from Regional Commercial land use classification to Residential 2– 3.5 dwelling units per acre.**

**Motion carried 5-2**

**Aye – Chairman Jennifer Wittmann  
Aye - Vice Chairman Joshua Oehler  
Aye - Commissioner Chad Fuller  
Aye - Commissioner Kristopher Sippel  
Aye - Commissioner David Cavanee  
Nay - Commissioner Brigitte Peterson  
Nay - Commissioner Anthony Bianchi**

Recommend to the Town Council denial of GP13-07 to change the land use classification FOR approximately 54.74 acres of real property generally located at the southwest corner of Higley and Riggs Roads from regional commercial land use classification to residential > 2-3.5 du/acre land use classification.

Chairman Wittmann thanked everyone for their participation and noted that the case would be heard at Town Council on December 19, 2013.

#### **ADMINISTRATIVE ITEMS**

**Minutes** – Consider approval of the minutes of the Study Session and Regular Meeting of November 6, 2013.

**A motion was made by Commissioner Anthony Bianchi and seconded by Commissioner Brigitte Peterson to approve the minutes of the Study Session and Regular Meeting of November 6, 2013.**

**Motion carried 7 - 0**

Presentation of service award to Commissioner Chad Fuller.

Chairman Wittmann presented Commissioner Chad Fuller with a plaque from the Town to thank him for his previous 8 ½ years of service to the community.

#### **COMMUNICATIONS**

**Report from the Chairman and Members of the Commission on current events.**

Commissioner Peterson thanked the Town and its citizens for the Community of Excellence Award that she had won for volunteer of the year. The award was presented by Vice Mayor Ben Cooper and Council Member Eddie Cook.

**Report from Council Liaison**

Town Council Member Jenn Daniels said that she spoke for the rest of the Council as she thanked Chad Fuller for his service. Gilbert is now considered the second safest city in America. Friday night is Nights of Lights at the Town Hall and the Gilbert days Parade is being held on Saturday, December 7<sup>th</sup> at 9:00 a.am. Gilbert Road will be closed for the event.

**Report from the Planning & Development Services Manager on current events.**

Planning Manager Linda Edwards thanked Chad Fuller for his professionalism and humor throughout his years of service. Single Family housing starts for November were 109 which were down from 154 in the previous month. The Design Review Board approvals in November included standard plans for over 896 lots in three communities, Layton Lakes, Lakeview Trails and Woodland Homes. Horn Kia is the new car dealership at the Motorplex and a new assisted living facility was approved near Mercy Gilbert. Town Council approvals for the month of November include a development agreement for San Xavier, the approval of the General Plan Amendment for the Islands and the removal of the 100’ buffer on Mercy as it was no longer needed to buffer residential. Epicenter has been continued and Fulton Homes was just approved for 79 acres in Cooley Station. Ms. Edwards noted that a lot of the work that the Planning Commission has sent forward is growing Gilbert.

**ADJOURNMENT**

Chairman Wittmann adjourned the meeting at 11:35 p.m.

\_\_\_\_\_  
Chairman Jennifer Wittmann

ATTEST:

\_\_\_\_\_  
Recorder Margo Fry