

**TOWN OF GILBERT
PLANNING COMMISSION STUDY SESSION
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 Chad Fuller
Commissioner Anthony Bianchi
Commissioner David Cavenee
Commissioner Kristofer Sippel
Alternate Commissioner Khyl 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 Al Ward
Senior Planner Maria Cadavid
Planner Amy Temes
Planner Curtis Neal
Planner Nathan Williams**

ALSO PRESENT:

**Town Attorney Phyllis Smiley
Recorder Margo Fry**

CALL TO ORDER:

Chairman Jennifer Wittmann called the meeting to order at 5:05 p.m.

GP13-05 - Minor General Plan Amendment for the Gilbert 2013 annual General Plan Update including the following: changing the Land Use Map to reflect recent General Plan amendments; amending the Circulation Map to update the Legend, collector street locations and show a future interchange at Lindsay Road and the Santan 202 Freeway.

Planner Nathan Williams stated that they typically do an annual General Plan update every year on various chapters. This year the update reflects only changes to a few of the maps, the land use map that is associated with Chapter 2 and the circulation map that is associated with the circulation Chapter 3. Planner Williams displayed the land use map and noted that the changes were just updating General Plan amendments. They have also added a symbol for a potential future interchange at Lindsay Road and the

202 Freeway. They have updated the legend and previously had a major/minor collector designation which they have changed to be a collector designation. The existing roadways were previously a solid line with future roadways a dash line. The map colors are green and red for the arterials and yellow for the collectors. The collector streets on the map have also been updated. The interchange at the 202 and Lindsay has been identified. ADOT is conducting a preliminary engineering study on a potential future interchange there which should help to determine the type of interchange that could be required, whether it is a half diamond, full interchange or just one or another. The project should begin in early 2014 and will include some high-level costs. The reason for including the interchange on the General Plan circulation map is because that part of town is within a number of different growth boundaries and districts and is located in the Vertical Development Overlay Zoning District, Number 5. Along the 202 corridor will be intense office, retail, light industrial and employment uses. The Vertical Development Overlay Zoning District allows 90 feet and 6 stories by right in the area which is on both sides of the 202. Bonus height can be up to 150 feet and 11 stories. It also includes the Gilbert 202 growth area which is located on both sides of the 202 from Gilbert to Val Vista. Planner Williams stated that the growth area was approximately 1100 acres. The potential interchange in this area is a Gateway to Gilbert from Chandler and is near the Chandler Airpark which is just south of the 202 and Gilbert Road. It is also part of the Economic Development Employment Corridor, number 4 which is approximately 2040 acres and 1184 acres which is 58% of that area which is currently vacant. The proposed Lindsay/202 interchange is centrally located in that area and will relieve some of the traffic concerns as it develops. Planner Williams noted that the Rivulon development is to the north of the 202 just East of Gilbert Road which will be another driving force. That will include over 3,000,000 ft.² of commercial office and is 252 acres. Currently there is a single access point on Gilbert Road to the 202 Freeway. The Rivulon project makes up 12% of the employment corridor 4. Those will double the amount of office square footage that is currently in Gilbert.

Chairman Wittmann asked how the future right-of-way plan for the interchange affects any future approved development plans located at that intersection. Are there any existing developments there?

Planner Williams stated that he was unaware of Rivulons development agreement and whether it will impact that.

Planning Manager Linda Edwards said that she was not prepared to answer that as it was part of the ADOT study. The Rivulon project has accommodated their development for a frontage road so they have pushed their development out of where a potential frontage road could be on the North side.

GP13-17 - Lindsay Square Care Center - Minor General Plan amendment to change the land use classification of approximately 3.9 acres of real property generally located north and east of the northeast corner of Lindsay and Williams Field Roads from Neighborhood Office (NO) land use classification to Community Commercial (CC); and

Z13-29 - Rezone approximately 3.9 acres of real property generally located north and east of the northeast corner of Lindsay and Williams Field Roads from Town of Gilbert Neighborhood Office (NO) zoning district to Community Commercial (CC) zoning district with a Planned Area Development (PAD) overlay.

Senior Planner Maria Cadavid displayed an aerial map of the project that was being presented. She noted that the vacant side was zoned Neighborhood Office, to the West is Community Commercial, SF – 7 to the East and North and to the Northwest is SF – 15. The location of the site prevents easy development for neighborhood offices as it doesn't have the visibility and the distance from Lindsay Road is over 500 feet and 270 feet from Williams Field. A PAD exhibit was displayed. The location of the building has a lot of ins and outs and the sighting of the building is rather large but does not give a monolithic view and meets and exceeds all of the setbacks. Ms. Cadavid referred to the following information from page 4 of the staff report:

Proposed Zoning District:		Community Commercial (CC) with a PAD
Applicable Standards:	LDC Community Commercial (CC)	Proposed Standard
Maximum Size User (sq. ft.)	50,000	75,000
Maximum Building Height (ft.)/(Stories)	35/2	35'
Minimum Setbacks (ft.)		
Front	20'	60'
Side (Residential)	25'	90+
Rear (Residential)	40'	91'-8"
Side (Nonresidential)	15'	81'-6"
Minimum Required Perimeter		
Landscape Area (ft.)		
Side (Residential)	25'	30'
Side (Nonresidential)	15'	15'
Rear (Residential)	30'	30'
Landscaping (% of net lot area)	15%	36%
Off-Street Parking and Loading	45 spaces	95 spaces

Ms. Cadavid said that the only item that is not per the general standards is the size itself of the facility, however, in another section of the code the application of the PAD overlay specifically mentions this type of use as being one of those that the Town should consider as a deviation. Staff attended the neighborhood meeting where a couple of people did not want the building to be a two-story. Others were agreeable to the development because they saw that there are really no deviations from the standards and that the applicant has made an effort to blend in with the residential character and placing all of the passive areas next to their residential properties. Ms. Cadavid displayed a conceptual illustration of what the elevations will look like. Staff has been successful in processing similar cases one being the Sunrise Congregate Living facility on Gilbert Rd., North of Warner.

Commissioner Cavanee said in terms of the ingress/egress points it appears that they have by right by property ownership to Williams Field but that he saw a cross access to Lindsay Road. He asked how those were impacting the adjacent properties.

Miss Cadavid said that this was a piece that is part of the larger commercial acreage with 2 zoning districts. It is been in the development stages since 2003. They have in existence a cross access and parking agreement and this use will actually provide more parking spaces then needed.

Commissioner Cavanee asked how signage would come into play given their location relative to adjacent properties.

Ms. Cadavid stated that that would be evaluated as part of the Design Review Board submittal.

Vice Chairman Oehler said that there is a daycare center that this cross access would pass by. Going South through the office area you cannot cross Williams Field at that point. You could do that at Lindsay because it does not have a median. Traffic might be funneled through that. Even though it is the back end of the shopping center you will pass in front of the daycare center.

Ms. Cadavid said that they would discuss that with the traffic engineer and would come back to the Commission with information on that.

Chairman Wittmann asked staff if the reason that the applicant was requesting a PAD was to lock in the site plan.

Ms. Cadavid responded that was correct.

Z13-32 - Rezone and modify the Development Plan for approximate 5.9 acres of real property generally located at the southeast corner of Wade Drive and Vest Avenue from the Town of Gilbert Single Family-Detached (SF-D) with a Planned Area Development (PAD) overlay zoning district to conventional Multi-Family/Low Density (MF-L) zoning district.

Senior Planner Maria Cadavid displayed an aerial map and noted that this application was part of Cooley Station. The request is for a rezoning of 6 acres for a LDS meetinghouse facility at that location. The applicant states that the reason they are requesting the Multifamily Low designation is because in those land use classifications Multifamily Low is one of the recommended zoning districts to achieve the desired density. The owner of the land prefers that zoning district designation. Staff does not have any issues with that as the applicant exceeds all the setbacks and standards and are short only on the open space because in a conventional multifamily apartment development that number is fairly large. This is a minor church facility and besides the building and the parking field everything else will be landscaped. Fulton homes have a proposal for homes right across the street from this facility. Staff is reviewing another residential development East and South of the site. Staff feels that this is a use that complements all of those residential densities. Another point that staff has discussed with the applicant and which they have accepted is to maintain the 6 acres as part of Cooley Station.

Commissioner Fuller said that his concern was what would happen if for some reason a church wasn't developed on the site and down the road it sells with a multifamily low zoning.

Planner Cadavid said that what was presented was the development exhibit for that portion of parcel 1A of Cooley station.

Commissioner Bianchi said that if it was a place of worship why they would need the rezone.

Ms. Cadavid stated that Single Family and Single-Family Detached do not permit a place of worship. The applicant points out that in the general plan, in parentheses, where they make zoning recommendations to achieve density and those are those districts plus the Multifamily Low. The applicant states that they will stick with the MF – L and comply as much as they can so that they do not have to do a General Plan Amendment. The owner of the land also agrees with that because they want to maintain that comparable density in the surrounding areas.

Z13-11 - Behavioral Health Hospitals - Citizen Review and initiation of amendment to the Town of Gilbert Land Development Code, Chapter I Zoning Regulations, Division 2 Land Use Designations, to amend: (1) Article 2.3 Commercial Districts, Section 2.303 Land Use Regulations, Table 2.303 Land Use Regulations - Commercial Districts related to adding a new Use Classification for "Behavioral Health Hospital"; (2) Article 2.5 Office Districts, Section 2.503 Land Use Regulations, Table 2.503 Land Use Regulations - Office Districts related to adding a new Use Classification for "Behavioral Health Hospital"; (3) Article 2.6 Employment Districts, Section 2.603 Land Use Regulations, Table 2.603 Land Use Regulations - Employment Districts related to adding a new Use Classification for "Behavioral Health Hospital"; (4) Article 2.7 Public Facility/Institutional District, Section 2.702 Land Use Regulations, Table 2.702 Land Use Regulations - Public Facility/Institutional District related to adding a new Use Classification for "Behavioral Health Hospital"; and (5) Division 6 Use Definitions, Article 6.1 Use Definitions, related to adding a new definition for "Behavioral Health Hospital".

Senior Planner Mike Milillo stated that Z 13 – 11 is a study session item for behavioral health hospitals. This item was originally thought of in the spring when there was a behavioral health hospital that came into the community and there was some thought that perhaps they should differentiate between behavior health hospitals and general medical hospitals. Planner Milillo asked the Commission to focus their attention on pages 2 and 3 of the staff report and the relevant information compiled by staff which is as follows:

Summary of Relevant Information Compiled by Staff:

Planning Commission
Study Session 12-4-13

- Comparison of Hospital Definitions: (See Attachment 1)
 - Staff researched the definitions and zoning regulations in ten communities both within Arizona and out of state. Local communities include Tempe, Chandler, Glendale, Scottsdale and Phoenix. Other Arizona communities include Prescott and Tucson. Comparable communities outside Arizona include Louisville, Colorado, Carrollton, Texas and Dublin, Ohio.
 - Of the seven Arizona cities researched, six include behavioral health hospitals under the hospital definition.
 - Of the local (Phoenix area) cities researched, four allow hospitals by-right and by use permit depending upon the specific zoning district and one allows them by use permit only.
 - All three out-of-state communities researched include behavioral health hospitals under the hospital definition.

- Police Calls for Service Comparison: (See Attachment 2)
 - Police Department staff researched calls for service data at three Gilbert hospitals and three behavioral health hospitals located out-of-state.
 - Police calls for service appear to be higher at General Medical Hospitals than at Behavioral Health Hospitals. Even adjusting for the larger size of two of Gilbert’s hospitals, their average calls for service are higher than those at the behavioral health facilities.
 - In the three out-of-state jurisdictions from which data was received, the presence of a behavioral health facility appears to have had no impact on calls for service in the areas surrounding the facilities.

- Zoning Administrator Interpretation: (See Attachment 3)
 - The Zoning Administrator recently prepared a formal interpretation at the request of an applicant challenging the location of a behavioral health hospital in the Regional Commercial (RC) zoning district.
 - In making the requested determination, the Zoning Administrator considered Arizona State Department of Health Services (AZDHS) definitions and rules, which implicitly recognize that behavioral health facilities and hospitals are regulated and licensed as medical facilities without meaningful distinctions.
 - This Zoning Interpretation found that:
 - 1) The proposed behavioral health hospital both meets the definition and is substantially similar to a “Hospital” and “Medical Offices and Clinics” as those uses are defined in the LDC.
 - 2) The proposed behavioral health hospital is a permitted use in the Regional Commercial (RC) zoning district under the Land Development Code.

Planner Milillo reminded the Commission that they received a presentation on the case in July but they held the citizen review meeting and did not initiate the item. The text amendment is still not initiated and will be left to the Planning Commissions discretion. Mr. Milillo referred to the above information on hospital comparisons and noted that the outlier in Arizona is the city of Prescott which classifies them as assisted living facilities. Gilbert does have a land use classification for assisted living facilities; however, it does not include behavioral health hospitals. Because of the claims that there would be a lot of crime associated with behavioral health facilities staff looked at police calls for service and Mr. Milillo referred to the above information in reference to those. Planner Milillo referred to the above information regarding the Zoning Administrators interpretation of the definition of behavioral health hospitals. He noted that the Zoning Administrator issued the interpretation that “hospital” is really the appropriate use classification for all of the inpatient activities and that for outpatient activities it would more likely be “medical clinics.” Both of

those are permitted in the Regional Commercial zoning district which is the subject of the zoning interpretation. Mr. Milillo said that staff had made three conclusions which are as follows from page 3 of the staff report:

- 1) Gilbert's Land Development Code's classification of behavioral health facilities as hospitals is consistent with the Zoning Code use classifications of most other communities.
- 2) Behavioral health facilities do not generate a greater number of Police calls for service than general medical hospitals.
- 3) There are no compelling reasons to establish a new use classification for behavioral health hospitals.

Planner Milillo said that it was somewhat unusual that instead of requesting that the Planning Commission actually initiates this, staff is presenting it as a potential LDC text amendment. If the Commission does decide to initiate it staff would ask that they hold the citizen review meeting.

Chairman Wittmann asked if they were initiating and holding the citizen review, assuming that they initiated.

Planner Milillo said that if they decide to initiate the amendment they should hold the citizen review meeting as well.

Chairman Wittmann said if they don't have enough information on the topic how do the citizens have an opportunity to review and discuss what is being proposed.

Planning manager Linda Edwards stated that the purpose of initiation of a text amendment and a citizen review is to open the subject matter, scope the issue and determine if further research needs to occur to actually consider a text amendment. In this case there has been some preliminary research as they actually had a project and have had a zoning interpretation which is attached to the staff report. What the Planning Commission is being asked to consider is whether or not they feel that the community should initiated text amendment to break out a behavioral health hospital from the existing LDC terms and uses. If the Commission feels that this is something that they need to pursue they do need to initiate a text amendment and hold a citizen review.

Chairman Wittmann stated that the citizen review would be only to get public comment on the initiation of the amendment and not on the actual proposed amendment.

Town Attorney Phyllis Smiley said that the citizen review could actually discuss potential issues with behavioral health hospitals that the public might want to see addressed in an amendment going forward. The citizen review is not part of the Planning Commission's decision whether or not to initiate. First the discussion is held as to whether or not to initiate and then they would hold the citizen's review meeting.

Chairman Wittmann said that she did not understand the context of the citizen review. In the past they would initiate and that it would come back with a full presentation from staff and then the citizen review is held. She said that she was confused.

Town Attorney Phyllis Smiley said that they apparently have done it several ways. There have been times with certain amendments where they have had stakeholder groups held before the initiation so that there was more information in terms of what was to be proposed that came forward at the citizen review meeting. It is also been done the way that it was being done currently where there was some interest and they were trying to move forward.

Commissioner Cavanee said that what he was hearing from staff and what he was reading in the packet is that they have done some preliminary research and found that there is likely no need. He asked if they were getting citizen input that there should be consideration of a change.

Planner Milillo said that the information that they have received has pretty much centered on the specific hospital proposal. Staff is received no input and it has been advertised on two different occasions, but no input from the public has been received on the text amendment itself. The public has provided their input when they have a specific hospital that wants to locate at a specific location. That is how they know what the perceptions are.

Commissioner Cavanaugh said he understood that they were preparing for the next time they get a behavioral health case in front of them and at that point they will have the term or definition more refined.

Commissioner Peterson asked if this would have anything that happened with the behavioral health hospital that they just saw. With this, would this have changed anything in the cases if the LDC was updated to reflect behavioral health hospitals and the two that were looked at?

Planner Milillo said that depends on what the text amendment would actually say. What was presented was the basic framework put together by staff in order to advertise the case. What they envision was that they would have a specific definition for a behavioral health hospital that would be different from the general hospital definition that they have and that they would add it to the various zoning districts where hospitals are permitted perhaps by a conditional use permit. It may have changed the outcome.

Commissioner Bianchi asked if they were looking to reclassify the hospital definition for treatment purposes. Is there currently a difference between behavioral health versus a medical center?

Planner Milillo said that there is no distinction currently in the code. Based on research staff doesn't believe there is any compelling reason to change and have a separate definition for these types of facilities.

Commissioner Bianchi asked if behavioral health was considered a disability and the protections that they have as well as for where they can locate.

Mr. Milillo said that he could not answer that he did not think that all of the patients in behavioral health facilities are a protected class but that he would defer that question to the Town attorney.

Attorney Smiley said that primarily the ADA and the Fair Housing Act apply to residential homes and state that you cannot treat a person with a disability different from other residential living facilities. It does not really apply to a hospital as much as it does with sober homes where you are putting a group facility in a residential neighborhood.

Commissioner Bianchi said that if they initiate the text amendment how do they give some sort of recourse as many people saw the proposal and were uncomfortable with it and the only recourse that they had was to show up at Design Review because by right they really don't have to go through any other public hearing process. He said that he did not really like the idea of these types of facilities by right in RC because when he thinks of a medical center or hospital he thinks of the synergistic uses that come from that which is the goal of RC.

Chairman Wittmann said that she was confused because on the 2nd page of the staff report it says that "there is no compelling reasons to establish a new use classification for behavioral health hospitals."

Commissioner Peterson said that they will not know if they need to make a change to the code unless they initiate the text amendment and have a discussion about it. Mr. Milillo has stated that they may not need the change but if they don't initiate the text amendment they won't know that without further research and discussion.

Chairman Wittmann initiated the text amendment and opened the citizen review. No one came forward to speak.

Planner Milillo said that if the Planning Commission had any suggestions or recommendations for staff they would be appreciated. Staff has basically done the preliminary research and could do more however staff was not sure what that would entail. If the Commission were looking for some additional information staff would appreciate direction to do that because they are not convinced that they do need a new use in the zoning code.

Commissioner Sippel said that he agrees with staff in that he is not sure that they need to go through the process. Perhaps they do another couple of meetings but then they may come back with more of what they already know so did they really need to do that. What is in place is adequate and staff doesn't necessarily see the need to do anything different.

Commissioner Bianchi said that his understanding was that with the last two proposals that have come through there were a lot of folks who lived nearby these places who were blindsided and wanted to know what recourse that they had. When they found out that there really wasn't any that is when the outcry began. In terms of going through a public hearing process and trying to alleviate concerns or vet the proposal out, that is what the Commission is therefore. He said that he thought there should be some source that gives a public hearing process such as a Use Permit or other classification that they can explore doing that as well to make the findings of fact met before they give an approval and give the public some sort of recourse so that they don't continually have these cases come up.

Chairman Wittmann said that she thought it was important to try to determine compatibility but what mechanism would be appropriate for that she did not know as they did not have enough information to provide a lot of comment. She said that she assumes staff would come up with a planned use definition to determine which zoning categories it would apply in and whether there are additional use restrictions or site development restrictions.

Commissioner Cavanaugh said that it was his belief the only thing that they could do is look at previous cases and evaluate the issues to see if there is something to address there.

ADJOURN MEETING

Chairman Wittmann adjourned the meeting at 5:55 p.m.

Chairman Jennifer Wittmann

ATTEST:

Recorder Margo Fry