

DRAFT

**TOWN OF GILBERT
PLANNING COMMISSION REGULAR MEETING
COUNCIL CHAMBERS
50 E. CIVIC CENTER DRIVE
GILBERT, AZ
FEBRUARY 1, 2017**

COMMISSION PRESENT: Chairman Kristofer Sippel
Vice Chair Brian Andersen
Commissioner Carl Bloomfield
Commissioner David Cavenee
Commissioner Gregory Froehlich
Commissioner Brian Johns
Commissioner Joshua Oehler
Alternate Commissioner Seth Banda
Alternate Commissioner Mary Harris

COMMISSION ABSENT: None

STAFF PRESENT: Bob Caravona, Senior Planner
Nichole McCarty, Planner II
Ashlee MacDonald, Planner II
Gilbert Olgin, Planner II
Amy Temes, Senior Planner
Principal Planner Catherine Lorbeer
Planning Manager Linda Edwards

ALSO PRESENT: Attorney Phyllis Smiley
Council Liaison Brigitte Peterson
Recorder Debbie Frazey

PLANNER	CASE	PAGE	VOTE
Bob Caravona			Approved
Nichole McCarty			Approved
Bob Caravona			Approved

CALL TO ORDER REGULAR MEETING

Chair Kristofer Sippel called the Regular Meeting of the Planning Commission to order at 6:10 p.m.

ROLL CALL

Recording Secretary Debbie Frazey called roll and a quorum was determined to be present. All of the Commissioners were in attendance.

6. APPROVAL OF AGENDA

Chair Sippel said he would make a **MOTION** to approve the Agenda with the following changes: Item #8, DR16-47, The Learning Experience Daycare would be removed from the Public Hearing (Consent) agenda and Continued until the March 1, 2017 Planning Commission meeting; Item #9, UP16-10 would be moved from Public Hearing (Consent) to Public Hearing (Non-Consent) and Item #14, GP16-04 and Item #15, Z16-14 would be moved from Public Hearing (Non-Consent) to Public Hearing (Consent). All other items on the agenda are as presented. The motion was seconded by David Cavenee, motion passed unanimously.

Motion passed 7-0

7. COMMUNICATION FROM CITIZENS.

At this time, members of the public may comment on matters within the jurisdiction of the Town, but not on the agenda. The Commission/Board response is limited to responding to criticism, asking staff to review a matter commented upon, or asking that a matter be put on a future agenda.

Chair Sippel asked if there were any members of the public who wished to speak on something that was not on the agenda. Seeing none, Chair Sippel moved on to the next item on the agenda and opened the public hearing.

PUBLIC HEARING (CONSENT)

All items listed below are considered consent calendar items and may be approved by a single motion unless removed at the request of the Commission/Board for further discussion/action. Other items on the agenda may be added to the consent calendar and approved under a single motion.

- 14. GP16-04, SHOPS AT CIRCLE G CORPORATE PARK: REQUEST FOR MINOR GENERAL PLAN AMENDMENT TO CHANGE THE LAND USE CLASSIFICATION OF APPROXIMATELY 38.2 ACRES OF REAL PROPERTY GENERALLY LOCATED AT THE NORTHWEST CORNER OF POWER ROAD AND GALVESTON STREET FROM 38.2 ACRES BUSINESS PARK LAND USE**

Planning Commission
Regular Meeting February 1, 2017

CLASSIFICATION TO 23.4 ACRES OF BUSINESS PARK AND 14.8 ACRES OF REGIONAL COMMERCIAL LAND USE CLASSIFICATION.

15. **Z16-14, SHOPS AT CIRCLE G CORPORATE PARK: REQUEST TO AMEND ORDINANCES NO. 1425 AND 1644 PERTAINING TO THE GATEWAY TOWNE CENTER PLANNED AREA DEVELOPMENT (PAD) BY REMOVING APPROXIMATELY 38.2 ACRES OF REAL PROPERTY, GENERALLY LOCATED AT THE NORTHWEST CORNER OF POWER ROAD AND GALVESTON STREET FROM APPROXIMATELY 38.2 ACRES OF BUSINESS PARK (BP) ZONING DISTRICT WITH A PLANNED AREA DEVELOPMENT (PAD) OVERLAY TO APPROXIMATELY 23.4 ACRES OF BUSINESS PARK (BP) ZONING DISTRICT AND 14.8 ACRES OF REGIONAL COMMERCIAL (RC) ZONING DISTRICT, ALL WITH A PLANNED AREA DEVELOPMENT (PAD) OVERLAY.**

STAFF RECOMMENDATION

- A. Recommend to the Town Council approval of GP16-04, to change the land use classification of approximately 38.2 acres of real property generally located at the northwest corner of Power Road and Galveston Street from 38.2 acres of Business Park to 23.4 acres of Business Park and 14.8 Acres of Regional Commercial land use classification; and
- B. For the following reasons: the development proposal conforms to the intent of the General Plan and can be appropriately 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 of Z16-14, to amend Ordinances No. 1425 and 1644 to remove approximately 38.2 acres of real property generally located at the northwest corner of Power Road and Galveston Street from the Gateway Towne Center Planned Area Development (PAD); and to approve the Development Plan for the Shops at Circle G Corporate Park Planned Area Development (PAD) and rezone said 38.2 acres of real property from Business Park (BP) zoning district with a Planned Area Development (PAD) overlay to approximately 23.4 acres of Business Park (BP) and 14.8 acres of Regional Commercial (RC) zoning district, all with a Planned Area Development (PAD) overlay, subject to the following conditions.
1. Road and Galveston Street and Blue Jay Drive adjacent to the Property shall be completed prior to issuance of a certificate of occupancy or final approval of any building constructed on the Property or at the time requested by Gilbert, whichever is earlier. If Gilbert constructs the improvements required by this ordinance as part of its capital improvements program prior to development of the

Property, Developer shall reimburse Gilbert for its reasonable costs of construction prior to issuance of a certificate of occupancy or final approval of any building constructed on the Property.

2. Prior to the recordation of a Final Plat or issuance of a Building Permit, whichever is earlier, the 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 prior to the recordation of a Final Plat or issuance of a Building Permit may result in reversion of the zoning to the prior zoning classification.
3. 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. 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.
4. 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.
5. Prior to final plat approval, Developer shall pay for its proportional share of water and sewer mains benefitting the Property, as required by the Town Engineer.
6. A fair disclosure agreement and covenants shall be recorded as condition of development approval for all permitted uses within the Airport Planning Area (APA).
7. The construction, alteration, moving and substantial repair of any building or structure in the new project shall achieve an exterior to interior Noise Level Reduction (NLR) of 25 decibels (dB). The developer shall submit a signed and sealed letter from a registered architect or engineer certifying that construction materials methods and design employed achieve the required noise reduction. A copy of the certification shall be submitted with the application for a building permit.
8. The owners of the new project, including mortgagees, other lien holders and easement holders, shall execute an avigation easement prior to or concurrently with the recordation of any final plat or approval of a final site plan for the new project. The easement shall be in a form approved by the Planning Director.
9. Due to the proximity to Phoenix- Mesa Gateway Airport, any proposed permanent or temporary structure is subject to an FAA filing for review in conformance with CFR Title 14 Part 77.9 (form 7460) to determine any effect to navigable airspace and air navigation facilities. If required, an FAA determination notice of no hazard to air navigation shall be provided prior to building permit issuance.

10. Building Setbacks internal to the project boundary, regardless of zoning designation, shall be 0’.
11. Required Landscape Areas internal to the project boundary, regardless of zoning designation, shall be 0’.

Chair Sippel read the consent agenda (as listed above). The items included Agenda Item #14, GP16-04, Shops at Circle G Corporate Park; Agenda Item #15, Z16-14, Shops at Circle G Corporate Park. Chair Sippel verified that there were no members of the public that wished to speak on these two items. Seeing none, he closed the public hearing and called for a motion. A **MOTION** was made by Joshua Oehler to approve the Public Hearing (Consent) Agenda (Item #14, GP16-04 and Item #15, Z16-14), subject to staff recommendations; seconded by Carl Bloomfield, motion passed unanimously.

Motion passed 7-0

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/Board 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/Board.

Chair Sippel called for members of the public that were in attendance at tonight’s meeting to speak on Item #8, DR16-47, The Learning Experience Daycare. He reminded the members of the public that DR16-47 will be **continued to the March 1, 2017 Regular Meeting**, but said that he would allow anyone present at tonight’s meeting, that was unable to come back to speak at the meeting in March, the opportunity to speak tonight.

- 8. DR16-47, THE LEARNING EXPERIENCE DAYCARE - SITE PLAN, LANDSCAPE, GRADING AND DRAINAGE, ELEVATIONS, FLOOR PLANS, LIGHTING, COLORS AND MATERIALS FOR APPROXIMATELY 1.57 ACRES, GENERALLY LOCATED AT THE NORTHEAST CORNER OF N. HIGLEY ROAD AND E. BARBARITA AVENUE AND ZONED NEIGHBORHOOD COMMERCIAL (NC).**

This item will be continued until the March 1, 2017 Regular Meeting.

Chair Sippel invited several members of the public to come up to the podium to speak. He informed them that they would each be allowed three minutes in which to speak.

Ken Van De Graaff, of Gilbert, introduced himself. He said he lived on Barbarita which is just down from the proposed development. He said that, consistent with discussion with David Cavenee on an earlier zoning, he was not averse to the project, but he was averse to access along

Barbarita, which would involve routing traffic from the project onto the residential area and bringing more traffic into their neighborhood. He said that their neighborhood is not designed for this flow of traffic, as it has neither sidewalks, streetlights, or the quality of roadway for the increased amount of traffic. He stated that many people walk along Barbarita from other neighborhoods and he doesn't believe the increased traffic level would be beneficial for the residents.

Randy Cook, Gilbert, introduced himself. He said he lives on Barbarita and is diagonally the second house from the proposed project. He said they were not opposed to the project, but are opposed to the access to Barbarita. He indicated that their neighborhood has horse property, as well as lots of children riding their bikes up and down the street, lots of people walking, and he is concerned that a building with access on Barbarita would bring a lot more traffic into the neighborhood. He is also concerned with people attempting U-turns in the street.

Stella Cook, Gilbert, introduced herself. She said she was involved when this property first went commercial. She said she had been in agreement prior to this, but they are hearing some things and haven't seen the actual plan. She said they had heard that the Town was asking for an access road on Barbarita. She said that when this was approved as Commercial, there was to be no access on Barbarita. She said her entire neighborhood has strong feelings on this issue due to the fact that they have a lot of children and horses. She said their roadway is chip-sealed pavement and would not be a very healthy road to be used for the hullabaloo of a child care facility. She said the neighbors had previously come out when the neighboring Urgent Care was being approved. At that time, she said that the Town had implied that they would bring in someone that wouldn't cause a lot of traffic. She said that now she had heard that Ashlee with the Town of Gilbert said they wanted an access point on Barbarita. She said her neighborhood cannot handle an access point on Barbarita. She said currently the neighbors cannot even turn out of the neighborhood to get out with all the U-turns people make. She said the neighbors are totally against this. She said the neighbors have a lot of horses. She said that people that would use the street would not respect the speed limit and would speed through there when they pick up their kids from the daycare center. She said she has seen this when she observed another facility on Greenfield and Desert. She said people almost ran her over in their rush to pick up their kids. She finished by saying they did not need their neighborhood turned into a circus. She thanked the Commission for her opportunity to speak and said she would be here to speak again.

John McGraw, Gilbert, introduced himself. He indicated that he also lives on Barbarita Avenue. He said that he is opposed to any access off of Barbarita. He said he and his wife personally ride horses in the area and believe that any access off of Barbarita would make it very dangerous to continue to ride their horses if this use is allowed. He said he personally doesn't believe that a daycare is a good use of the property.

Beth Ann Geddes, Gilbert, introduced herself. She said she also lives on Barbarita Avenue. She said they moved to that area because they were interested in a horse property because they ride horses. She said that along with riding horses, they also bike and walk in the area. She said they have children and grandchildren that walk the area, but that this area is not set up with sidewalks

or lighting, and is not safe to handle outside traffic. She stated that it is just set up for local residential use. She said that she is very opposed to the access on Barbarita Avenue.

Chair Sippel said that he didn't have any other comment cards related to this case. He asked if there were any other members of the public who wished to speak on this case. A member of the public indicated that she had turned in a comment card. Chair Sippel then invited Deana DeGraffenried to address the Commission.

Deana DeGraffenried, Gilbert, introduced herself and said that she lived directly across from the proposed daycare center. She said this parcel of land has been used for fireworks stands and Christmas tree lots and this has brought increased traffic to their corner. She said this intersection is not safe to have the extra traffic trying to turn left. She said it is already a dangerous area, with many people using the road to make U-turns. She said she was not one to try and rabble-rouse and cause grief to the Town, but she is very concerned that it is a safety issue. She said she has children and is concerned. She is opposed to the access point off Barbarita.

Chair Sippel said that before he moved on, he noted that he had two comment cards from members of the public that did not specify the agenda item they wished to speak on. The first comment card was from Duane Johnson and he indicated that he wished to speak on Item 12 and 13. The second comment card was from Carol Fawson and she indicated she wished to speak on Item 9. Chair Sippel reminded the audience that Item #8, DR16-47, would be heard again at the March 1, 2017 Planning Commission meeting. Another member of the public brought a comment card to the Staff table with a request to speak. Chair Sippel then invited him to come to the podium.

Jared Whitfield, Gilbert, introduced himself. He said that he also lived on Barbarita and that he had lived there for approximately seven years. He said he has small children and horses. He said he hasn't seen the drawings, but he shared that he works in the construction field, and it sounded like they were asking for access on Barbarita to access the commercial property from a residential road. He said this doesn't make a lot of sense, because the road in question is narrower than a normal two-lane road and doesn't have sidewalks. He said that his children ride horses down the road, as well as their scooters and bikes. He is concerned about additional traffic and the people that are driving there to pick up their children are not people that have horses or understand the type of neighborhood they live in. He said that within their neighborhood, people know which houses have small children that might run in the street, they know the house with the dog that is always getting out because it is their neighborhood and they look out for each other. This access point would bring additional people into the neighborhood that wouldn't understand the neighborhood and its peculiarities. He said although he hasn't seen the drawings, he would like to propose a solution. He said he couldn't imagine that they couldn't connect the parking lots of the Urgent Care and the daycare center. This would allow any access to come off of Higley or possibly off of Guadalupe and they could just travel through one parking lot to another. This would still provide multiple means of ingress and egress and then they wouldn't even need access off of Barbarita.

Chair Sippel asked Planning Manager Edwards if the Commission needed to make a formal motion to continue Item #8, DR16-47 to March 1, 2017. Planning Manager Edwards indicated that it would require a motion. Chair Sippel then called for a motion. David Cavenee made a **MOTION** to continue Item #8, DR16-47, The Learning Experience Daycare to the March 1, 2017 Planning Commission meeting, seconded by Carl Bloomfield, motion passed unanimously.

Motion passed 7-0

Chair Sippel asked Linda Edwards if, in the interim, if Staff could spend some time in the community showing them some further information on DR16-47. Linda Edwards suggested that Ashlee MacDonald identify herself and meet with the concerned citizens in the lobby area. She suggested the possibility of the neighbors getting together with Staff and the applicant before this comes before the Commission again on March 1st.

9. UP16-10, HIGLEY AND PLAMER ER: A CONDITIONAL USE PERMIT TO ALLOW EXTENDED HOURS OF OPERATION, FOR APPROXIMATELY 1.01 ACRES OF REAL PROPERTY GENERALLY LOCATED AT THE NORTHWEST CORNER OF HIGLEY AND CHANDLER HEIGHT ROADS IN THE NEIGHBORHOOD COMMERCIAL (NC) ZONING DISTRICT WITH A PLANNED DEVELOPMENT OVERLAY.

STAFF RECOMMENDATION

Make the Findings of Fact and approve of UP16-10 Higley and Palmer ER: a Conditional Use Permit to allow for extended hours of operation from 6am to 11pm to 24 hours per day, for approximately 1.01 acres of real property generally located at the southwest corner of Higley Road and Palmer Street, and zoned Neighborhood Commercial (NC) with a Planned Development Overlay, subject to conditions:

1. The Project shall be in substantial conformance with the site plan shown on the Exhibits provided under Attachment No. 4.
2. Hours of operation are permitted 24 hours a day.
3. The applicant shall receive approval of an administrative use permit for deferred parking.

Before the presentation began, Gregory Froehlich declared a conflict of interest on Item #9, UP16-10.

Amy Temes began her presentation on Item #9, UP16-10, Higley and Palmer ER. She said this request was for a Use Permit to allow for 24-hour a day operation of the facility. She pointed out that the Neighborhood Commercial (N/C) restricts hours of operation from 6:00 a.m. to 11:00 p.m., so for anything outside of those parameters, a Use Permit is required. She shared the location of the shopping center at the northwest corner of Chandler Heights and Higley Roads. She said that this was the last available site for development within the shopping center. She indicated that the findings that must be met in order to approve a Use Permit are listed in the Commission's Staff Report. She said that the overall shopping center site has five other Use

Permits. She said a majority of these Use Permits allow for 24-hour operations, such as the McDonald's, the Dunkin Donuts and Taco Bell, as well as the fueling center at the hard corner. She said there is a precedent set for allowing 24-hour operation within this shopping center. She briefly reminded the Commission of the differences between a standalone Emergency Room facility and an Urgent Care facility. She wanted to call attention to the fact that as per their state licensing, an Emergency Room facility must be open 24/7. Planner Temes indicated that they also have to have an ER physician on staff, they have to have a lab on site, they stock meds and they have an X-ray, CT and some have MRI's. She said that these standalone ER's also have backup generators in case of an emergency. She said they do not accept Medicare or Medicaid. Planner Temes said that due to the fact that they don't accept Medicare or Medicaid, and other insurance plans might not pay for this type of facility, they have a reduced number of patients. She reminded the Commission that these facilities were for an urgent, immediate medical crisis and not for traditional illnesses that people would go to an urgent care for.

Planner Temes said she had spoken with a number of neighbors over the last few weeks. She also spoke to the Shamrock Estates HOA. She said the consistent concerns she heard were that there be no new curb cuts. She said the applicant was not proposing any new curb cuts, but there would be shared accesses that exist today. She said that Tract G is a buffer and will provide additional landscape once it is landscaped. She said that Staff is actively working with the HOA to accomplish this. She said the minimum distance from the property line of this parcel to the property line of the nearest residential parcel, is around 102 feet. She said there is approximately 150 feet from building to building. She said there would be no manned door or vehicular access on the north side of the building. She said that the entrances and canopies are kept away from the north end of the building. She said there are also no external lights on that side of the building. She also reminded the Commission that all light poles were kept at 14' tall in deference to the neighbors to the north. She provided the applicant's Landscape Plan, noting that they are using materials that exist within the shopping center. She said they are using Palo Brea trees and they are a dominant tree in the area. She said that Staff has recommended backing off somewhat from using Palo Brea trees due to a disease called Witches' Broom that is going around the valley and taking out Palo Verde trees. She said that if a Palo Brea or Palo Verde gets this disease, it could create a crisis if the whole center is done with that type of tree. Planner Temes said they were trying to mix up the trees a little, and still be consistent with the overall theme. They are also trying to get as much evergreen plant material along the north side of the property as possible.

Planner Temes shared the four findings (listed below) that must be met to approve the Use Permit.

FINDINGS

The Planning Commission is required to make four findings in order to approve a Conditional Use Permit. The findings are listed here, along with the reasons why staff considers that the findings are or are not met in this case. These findings are:

- 1. The proposed use will not be detrimental to health, safety, or general welfare of persons living or working in the vicinity, to adjacent property, to the neighborhood, or to the public in general.***

The stand-alone emergency room is a suitable health care use on the 1.01 acre site. The proposed facility should not be detrimental to the health, safety or welfare of persons working or residing in the vicinity. The use proposes existing shared access with adjoining non-residential users to minimize curb cuts. Staff also notes that while the adjoining property, across Palmer to the north, is zoned Single Family – 10 (SF-10), the proposed use is buffered by a 33’ (average width) unimproved landscape tract and the required 10’ shopping center landscape area. The distance from the existing home to the northern most property line of the site ranges between 102’ and 117’. The proposed building itself is oriented toward the east/southeast corner of the property. The passenger drop-off is to the south, away from the homes. The ambulance loading is on the west side would be visible from two near-by (±102’ away) 2-story homes. It is not anticipated that an ambulance would be needed on a regular basis or that they would need to turn on the sirens with every call for service.

- 2. The proposed use conforms to the purposes, intent, and policies of the General Plan and its policies and any applicable area, neighborhood, or other plan adopted by the Town Council.***

The subject site is located within the Neighborhood Commercial (NC) land use category of the General Plan, which provides for “basic services for the immediate area and are generally no larger than five (5) acres in size. Neighborhood Commercial uses are typically, but not always, located along major collectors or arterials. Small scale retail and services uses under 25,000 square feet per user or stand-alone buildings are permitted.” The proposed emergency room will provide medical services to surrounding residents.

- 3. The proposed use conforms to the conditions, requirements, or standards required by the Zoning Code and any other applicable local, State, or Federal requirements.***

As conditioned,

The proposed free standing emergency room is classified as *Health Care Facilities: Urgent Care Facility, a facility that provides emergency medical services with no provision for continuing care on an inpatient basis.*

The proposed 6,315 sq. ft. emergency room will be 1-story in height, maximum of 25’ high. The building itself is oriented to the east/southeast of the property along an arterial street and within an existing shopping center. Required landscape setbacks are provided along the eastern and northern property boundaries. An Administrative Use Permit request has also been submitted to reduce the required number of parking spaces from 63 to 39. Approval of these two applications, in addition to approval by the Design Review Board for the full site improvements will be required, prior to construction and operation of the facility.

The proposed Conditional Use Permit request is to allow the facility to operate on a 24-hour basis as the NC zone limits the hours of operation to between 6:00 a.m. and 11:00 p.m.

4. The proposed use, as conditioned, would not unreasonably interfere with the use and enjoyment of nearby properties.

Staff is of the opinion that the use permit request to increase the hours of operation do not unreasonably impact or interfere with the use and enjoyment of neighboring properties and is a suitable health care use at an appropriate location. The property is located the intersection of a major arterial and an over-sized residential street that acts as a collector road (no homes are fronted toward Palmer Street at this location). The building itself is situated towards the arterial street. The layout of the building on the property provides building setbacks, no man doors and no parking on the north side of the building. Landscape buffers are provided along the north property line providing buffering in addition to the 8' landscape tract on the north side of Palmer Street, the 65' Palmer Street right-of-way and the Shamrock Estates Phase 1 Tract G, which is approximately an average of 33'. When ambulance transport is required, it is the business practice that no lights or sirens will be utilized until the ambulance has left the property. While the surrounding pads have been granted conditional use permits for vehicle services light, extended hours of operation, limited service restaurant use and fueling facilities, staff recognized that none of these uses were within 102' of a residence. However, staff finds that based on the location of the building, loading areas, facility entrance, access to the arterial street and the limited patients served by this facility, the extended hours of operation will not unreasonable interfere with the use and enjoyment of this residential property.

Pursuant to the above analysis, Staff is of the opinion that the project meets the four findings required for granting the modified Conditional Use Permit.

Planner Temes also shared that there is an Administrative Use Permit for reduced parking that is also being processed with this property. This request would reduce parking to 39 stalls. She further shared that some of the main concerns of the neighbors were regarding sirens, as well as additional traffic to the center, and lighting. She said that Staff recommended approval to allow the property to be a 24-hour facility. She finished her presentation.

Chair Sippel thanked Amy Temes for her presentation and called for questions or comments.

Question: Joshua Oehler sought to clarify if the Use Permit would stay with the property.

Answer: Planner Temes said it would stay with the property. She said if the tenant sold this ER business to another physician or firm, it would roll with that sale. She said they would have two years to move forward with this use or the Use Permit would expire.

Seeing no further comments from the Commission, Chair Sippel invited the applicant to speak.

Chair Sippel noted that the applicant was not in attendance. He told any members of the public that if they wished to speak on this case, they needed to fill out a card and turn it into Staff. He

said he had comment cards from two people that wished to speak. He called Gerald Salazar up to speak on UP16-10.

Gerald Salazar, Gilbert, introduced himself and said that he lives in one of the four homes that back up to the proposed emergency room. He said he is concerned about noise that this facility might generate, specifically sirens. He said he doesn't think anyone at the Staff level can predict the number of emergency vehicles that will be traveling this route. He said that he and his wife are retirees from the University of California and they moved to the area three years ago. He said they weren't expecting an emergency room 100 yards away from their back door. He said that he thinks it is fine that Dunkin Donuts and McDonald both have extended hours, but he pointed out that neither of them carry Oxycodone and Fentanyl. He has a concern about the drugs that will be housed on the property. He has heard that emergency rooms are hit pretty regularly by patients to illegally get these drugs. He said that Planner Temes has been wonderful to work with. He said it wasn't so much the facility he is opposed to, but the 24-hour access that he is concerned about. He said emergency vehicles going down Higley already wake him up in the night, but this would just increase the probability of having more emergency vehicles. He also wondered if they would accept other cases at the facility that weren't emergency cases and if that would turn it into more of an urgent care facility. He didn't think that they could make a profit with only 5 or 6 patients a day.

Carol Fawson, Gilbert, introduced herself. She said that there is a brand new urgent care in the lot across the street. She said her neighborhood is mystified as to why they would put an emergency room across the street from an urgent care that is under construction.

Amy Temes asked Chair Sippel if he would like her to answer the question. Chair Sippel said he would recommend she answer the question after Ms. Fawson is finished.

Carol Fawson continued by saying that there are quite a lot of urgent care facilities in their area. She said there are more urgent care facilities than there are gas stations. She suggested that unless some calamity was coming to the area that she wasn't aware of, it just seemed greedy to her. She said her husband was in the medical field and he knows how much these facilities are making. She pointed out that the applicant was from Utah. She said that means the money isn't even necessarily going to stay in Arizona. She said she likes the idea of the emergency room. She thinks it is a nice design, but she thinks since the urgent care made it in first, this one is too late and the area doesn't need another such similar facility. She said she also doesn't want to be woken up in the middle of the night by sirens, but she is also concerned about the access road Palmer. She said it is extremely narrow and you would not want to be on that road if you were in a hurry. She said they have many ways to try and escape their neighborhood without trying to use that street. She didn't think it was a good idea to put an ambulance on that road. She said that although she is completely mystified by the possibility of this going through, if it does go through, she doesn't think the Commissioner's should be flippant about the design needing to match the surrounding area. She said that the entire Shamrock Estates shopping center was more or less Craftsman style and she doesn't think the new design looks anything like the existing area.

Chair Sippel asked if there were any other members of the public who wished to speak on this item. Seeing none, he invited Amy Temes to come back up and answer a couple of the questions that had come up.

Amy Temes returned to the podium. She acknowledged that there was an urgent care facility going in across the street. She said that land uses are allowed within various zoning categories within the Code. She said that theoretically there could be three urgent care facilities (assuming they operated within the allowed hours) operating within the same center. Planner Temes said that within Neighborhood Commercial (N/C), urgent cares, clinics, and standalone ER's are all allowed, pointing out that the only reason they are before the Commission tonight is because they desire to operate 24 hours a day.

Chair Sippel called for questions or comments from the Commission.

Question: Joshua Oehler said that his question was more for the applicant, but he could ask Planner Temes to try and express the applicant's thoughts. He asked about the traffic counts. He asked what the applicant's thought processes are regarding traffic count for ambulances and emergency vehicles.

Answer: Planner Temes said that the Emergency Room sees approximately 14 to 16 patients a day on average. She said they do not have frequent ambulance rides, but there is no way to obtain an absolute number. She said she could not guarantee that it would be once a month, or once a week, or once every two months. She said the ambulances are only there when they need to transport someone who is having a crisis that has gone beyond what the ER can deal with, and the patient needs to be transported to the hospital. She said they don't always run lights and sirens, but would do so if it was a "Code 3" which takes place when it is urgent and critical that someone get to the hospital immediately. Planner Temes indicated that if someone were just being transported because they need an overnight stay at the hospital, they would not use lights and sirens. She shared that the ambulance bay exists so that they can load someone under a canopy and stay out of the weather. She said it was not her understanding that the ambulance would be housed there at all times, but rather they would be called as needed. She said it is a possibility that traffic will go out onto Palmer, but that access location to the shopping center has been there since the initial development of the shopping center and it was always shown as a shared access point.

Question: Joshua Oehler said that when he looks at the site plan, he doesn't see any break northbound on Higley. He asked where they would access the center. He asked if they were required to access the site pretty far south to get into the center and then drive through the center.

Answer: Amy Temes showed the location of the circle off of Higley that serves as the shared access with Sun Devil Auto and others.

Question: Joshua Oehler asked if there was a left-turn northbound.

Answer: Planner Temes answered that you could go left and it was full motion.

Question: Joshua Oehler sought further clarification for his confusion about the difference between ER and Urgent Care. He said it seemed to him that most of the things you would go to these places for could be done at either one.

Answer: Amy Temes said that if there were questions that the Commission didn't feel like she could answer, and seeing that the applicant wasn't in attendance, this item could be continued if the Commission felt it necessary. She then sought to answer Commissioner Oehler's question. She said that when a facility doesn't accept Medicare or Medicaid and an individual's insurance may or may not be accepted at such a facility, it really makes one think before deciding to go to an emergency room. She said this would mean the particular concern a patient had, would really need to be an emergency such as a critical condition, not just for an everyday condition that you would go to a traditional urgent care facility for. She said this facility is not for a sprained finger or chicken pox or strep throat. She pointed out that the patients would be paying as though they were going to a hospital, so a patient would be paying their deductible for a hospital visit, which is a significant amount of money. She said the applicant has indicated that this is the reason they only handle between 14 and 16 patients a day and that they feel by keeping a lower patient count, they can provide better service to the people that are coming there for critical care needs.

Comment/Question: Joshua Oehler said that it seems like all of those critical care type needs would require you to eventually end up at the hospital anyway, so why would you need to go to this ER facility. He acknowledged that he didn't understand the model and he wished that the applicant was present for him to clarify further. He said that he would feel comfortable with a continuance.

Comment: Chair Sippel said he also wouldn't mind hearing what the other Commissioners thought about the possibility of continuing this case, because it was a bit unusual not to have the applicant in attendance.

Question: Carl Bloomfield asked if because the facility is required to be open 24 hours a day by state standards, if the 24-hour operation isn't granted, would the project be dead in the water.

Answer: Amy Temes said that her applicant had not indicated to her what would happen if they didn't receive the 24 hour operating approval, but she speculated that since it is a state requirement, one could infer that the project would not go through. However, she pointed out that the applicant had not explicitly stated that to her and she didn't feel comfortable stating that on their behalf.

Comment: Carl Bloomfield said he would be inclined to continue the case so they could ask questions of the applicant.

Question: David Cavenee said that his question would lend itself to a direct question to the applicant, but he said he noticed in the packet that it said the ambulances would refrain from using sirens and lights until they depart the property. He wondered if that is something that could be managed or enforced by the applicant. He said it is stated in the staff report as a comment from the applicant, but he wondered how that could actually be done.

Comment/Question: Vice Chair Andersen said he would like to see this get voted on tonight, but he said if the consensus amongst the Commission is to continue it, he would support that so that they could get more information and everyone could have a clearer understanding on what is going on so they would feel comfortable with their vote. He asked Amy if they were going to continue it, if they could find out the protocol for ambulances when they are traveling to ER facilities. He asked if they were used during certain peak hours, but wondered if, after a certain time, they only used their sirens when there is vehicular traffic blocking their path. He said it would be helpful to have some more information on ambulance protocol. He said this seemed to be one of the main concerns from the public.

Response: Amy Temes said she would like to note that the Design Review is scheduled for March 1, 2017, so by continuing this to March 1, the two would be held concurrently.

Comment/Question: Joshua Oehler said that in addition to the ambulance protocols used, he would like to better understand enforcement of that rule. He also wondered about what would happen if this owner leaves the community, and they have a Use Permit that stays with the 24 hour operating schedule, how would they determine that whatever is brought before the Commission is held in enforcement. He said he assumed there would be some type of stipulation, but he wonders how the process would work.

Comment: Vice Chair Andersen wondered if the applicant wasn't here because they weren't in the state, or if it was just a matter that the applicant didn't arrive on time. If they intended to be here, could the applicant come later in the meeting and they currently table this item until later in the meeting, so that they could arrive and answer some of these questions. If he doesn't show up, they would continue the item.

Comment: Joshua Oehler said although this could be a possibility, they would be asking the neighborhood to stay the entire evening, hoping for the applicant to arrive.

Chair Sippel said he was inclined to suggest a continuance for the case. He asked for a motion for Continuance since it was a unique situation to not have an applicant in front of the Commission. He said that he didn't feel comfortable having Amy Temes try and answer the questions that would be best answered by the applicant. He said he appreciated the Vice Chair's possible solution, but agreed that it wouldn't be fair to those community members that came out on time. Joshua Oehler made a **MOTION** to Continue Item #9, UP16-10, Higley and Palmer ER to March 1, 2017; seconded by Carl Bloomfield, motion carried.

Motion carried 5-1 with one abstention

Aye - Chairman Kristofer Sippel

Aye - Commissioner Carl Bloomfield

Aye - Commissioner David Cavenee

Aye - Commissioner Brian Johns

Aye - Commissioner Joshua Oehler

Nay - Vice Chair Brian Andersen

Abstained - Commissioner Gregory Froehlich

10. GP16-07, NATIONWIDE REALTY - RIVULON: REQUEST FOR MINOR GENERAL PLAN AMENDMENT TO CHANGE THE LAND USE CLASSIFICATION OF APPROXIMATELY 22.5 ACRES OF REAL PROPERTY GENERALLY LOCATED AT THE SOUTHEAST CORNER OF GILBERT ROAD AND PECOS ROAD FROM SHOPPING CENTER (SC) TO REGIONAL COMMERCIAL (RC) LAND USE CLASSIFICATION.

11. Z16-20, NATIONWIDE REALTY - RIVULON: REQUEST TO AMEND ORDINANCE NO. 2464 AND REZONE APPROXIMATELY 22.5 ACRES OF REAL PROPERTY WITHIN THE RIVULON PLANNED AREA DEVELOPMENT (PAD), GENERALLY LOCATED AT THE SOUTHEAST CORNER OF GILBERT ROAD AND PECOS ROAD FROM 4.5 ACRES OF SHOPPING CENTER (SC) ZONING DISTRICT AND 18 ACRES OF SHOPPING CENTER (SC) ZONING DISTRICT WITH A PLANNED AREA DEVELOPMENT (PAD) OVERLAY TO 22.5 ACRES OF REGIONAL COMMERCIAL (RC) ZONING DISTRICT WITH A PLANNED AREA DEVELOPMENT (PAD) OVERLAY.

STAFF RECOMMENDATION

- A. Recommend to the Town Council approval of GP16-07, to change the land use classification of approximately 22.5 acres of real property, generally located at the southeast corner of Gilbert and Pecos Roads from Shopping (SC) to Regional Commercial (RC) land use classification; and

- B. For the following reasons: the development proposal conforms to the intent of the General Plan and can be appropriately 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 of Z16-20 rezoning approximately 22.5 acres of real property within the Rivulon Planned Area Development (PAD) and generally located at the southeast corner of Gilbert and Pecos Roads from approximately 4.5 acres of Shopping Center (SC) zoning district and 18 acres of Shopping Center (SC) zoning district with a Planned Area Development overlay to approximately 22.5 acres of Regional Commercial (RC) zoning district with a Planned Area Development overlay, 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. Dedication of 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 Lindsay 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 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.
 - iii. Construction of off-site improvements to Lindsay Road adjacent to 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 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. In addition, construction of 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.
- 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 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>	
Office Uses	18 ft. deep, 9 ft. wide and 25 ft. drive aisle width

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

Gregory Froehlich declared a Conflict of Interest on Item #10, GP16-07 and Item #11, Z16-20

Planner Nichole McCarty began her presentation on GP16-07, Nationwide Realty and Z16-20, Nationwide Realty. She shared that this was for a Minor General Plan Amendment and Rezoning request for Nationwide Realty. She shared that the location of the subject property was within the Rivulon Planned Area Development (PAD) on the southeast corner of Pecos and Gilbert Road. She said that the actual site is directly across from the City of Chandler Auto Mall. She said the site is in the very northwest corner of the Rivulon PAD. She shared a vicinity map. She provided the site history, noting that the site was annexed back in 2006 and in 2013 the Rivulon PAD was approved. She said that this project came before Study Session on January 4th of this year. She provided an overview about the general area, indicating that this fell within the Central Business District Area 5. She said it is adjacent to their Vertical Development Overlay District. She said most of Rivulon is within that overlay district, but that this particular piece was not. She said it also sits within their Gilbert and 202 Growth Area which promotes a variety of land uses in concentrated development.

Planner McCarty shared the General Plan Land Use Exhibit and noted that this currently has a Shopping Center (SC) designation. She discussed the surrounding zoning designations around the property. She said the request was to modify approximately 4.5 acres of Shopping Center (SC) and 18 acres of Shopping Center with a Planned Area Development (PAD) overlay to become a 22.5 acre area of Regional Commercial (RC) with a PAD overlay. Planner McCarty stated that this rezoning will allow for more interconnected development opportunities. She said that Staff had analyzed this for compatibility with the General Plan and it is compatible with the Town's Land Use and Economic Development. She said that because this is part of the 202

Growth Area, this request would promote more commercial centers, and overall, the proposed General Plan Amendment will allow for the continued development of a wide range of land uses to support the growth area. She indicated that the proposed Regional Commercial (RC) zoning is compatible with the adjacent districts including commercial in the City of Chandler to the west, Regional Commercial to the south and Business Park to the east. The northern boundary of the subject site is adjacent to an arterial (Pecos Road) that has a 135' right-of-way between the uses to the north. She said there would also be additional setbacks on the site for any new development that comes forward to the site. Planner McCarty shared the deviation requests (as listed below) noting that these deviations are consistent with those found in the remainder of the Rivulon site so Staff is supportive of those deviations. She briefly discussed each deviation.

Development Standards	Required per LDC – RC Zoning	Proposed RC/PAD
<i>Minimum Dimension for Parking Lot Spaces and Drive Aisles:</i> Office Uses only	19 ft. deep, 9 ft. wide and 25 ft. drive aisle width.	18 ft. deep, 9 ft. wide and 25 ft. drive aisle width.
<i>Parking Lot Landscaping:</i> Parking Lot Landscape Islands Landscape Diamond Planters	One (1) parking lot landscape islands shall be placed for each 8 consecutive parking spaces; No requirement for minimum quantity.	One (1) parking lot landscape islands shall be placed for each 12 consecutive parking spaces; One (1) 6x6 ft. landscape diamond planter shall be placed a maximum of 1 for each 6 parking spaces, situated between parking lot landscape islands, EXCEPT WHERE SITUATED BENEATH PROPOSED PARKING CANOPY LOCATIONS.
<i>Landscape and Berming for Parking Lot Screening</i> Parking Lot Screen walls	Landscaping or berming may substitute for fences up to a maximum of 25% of the length of the fence.	Landscaping or berming may substitute for fences up to a maximum of 50% of the length of the fence.
<i>Bicycle Parking</i> Bicycle Parking Requirements	1 bicycle space per 10 vehicle parking spaces; to a maximum of 100 bicycle spaces.	1 bicycle space per 100 vehicle parking spaces; to a maximum of 50 bicycle

		spaces.
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Planner McCarty discussed the list of comparable uses from the Shopping Center to the Regional Commercial that is the proposed zoning. She said that a Congregate Care Facility would be allowed in Shopping Center with a Use Permit, but noted that it is allowed outright within Regional Commercial. She said the same would be true of large-scale home improvement store. She noted that motor vehicle sales and leasing are not permitted within Shopping Center, but are permitted within Regional Commercial, as well as hospitals and hotels which would now be permitted uses. She briefly discussed development standards for the two different categories.

Planner McCarty shared that a neighborhood meeting had been held back on November 9, 2016. The meeting was attended by 3 nearby residents, 2 of which are in attendance at tonight's meeting. She said she had spoken with them prior to the start of the meeting. Neither of them wished to speak, but they wanted to hear what was being proposed. She did share with them regarding the proposed auto dealership that would be developed on a portion of this site. She said their major concerns were with what will be built along Pecos Road. She offered to keep them in the loop on any upcoming development plans that come forward. She said at the neighborhood meeting, they also discussed bright lights and the possibility of auto dealerships coming up Pecos Road. They were also concerned about multi-story buildings, but she indicated that she had explained to them the required setbacks and also information about the fact that they are not in a Vertical Zone Overlay so a project could not be 5,6,7 or 11 stories high. She said that Staff is recommending approval to the Town Council of Item #10, GP16-07 and Item #11, Z16-20. She referenced the Staff conditions that are listed within the Staff Report. She said these conditions would be included within the ordinance that goes to Council and she also indicated that they are an exact duplicate of what the current Rivulon PAD ordinance is.

Chair Sippel thanked Nichole McCarty for her presentation. He asked if any member of the Commission had any questions for Planner McCarty before he invited the applicant up to speak. Seeing none, Chair Sippel invited the applicant to the podium to add any additional information.

Laurie Brown, of Nationwide Realty Investors introduced herself, as did Engineering Consultant Michael Wolf. Chair Sippel asked if they had anything they would like to add to Planner McCarty's presentation. They did not have anything further to share. Chair Sippel then called for questions for the applicants.

Comment/Question: David Cavenee said that in their staff packet, it doesn't suggest that there is any specific project linked to this zoning change. He said he is aware of a project that Staff is reviewing currently only because Staff just brought it to their attention in the packet. He said it concerns him, that they are being asked to make a fairly significant change to the zoning, which would allow a lot more permitted uses, but this is usually done in coordination with a particular project being proposed and in this case, there isn't one. He said he was concerned about that. He asked what the applicants could tell him about the thinking and future plans that might give the Commission comfort.

Answer: Michael Wolf said they are requesting this zoning change because of the DR project that the Commission will be hearing next month. It is a 5 acre piece of the parcel and they are

proposing a Volvo auto dealership. He said that this is the last remaining piece that is Shopping Center and it divided the southern portion of the lot which is where the DR case will be located.

Question: David Cavenee asked if the proposed dealership would be on the south end of Lot 8.

Answer: Michael Wolf answered affirmatively.

Question: David Cavenee sought to clarify if there was any chance that auto dealerships will continue north up towards Pecos.

Answer: Michael Wolf said he wouldn't be able to speak to that question. He wasn't aware of any planning. He pointed out where the proposed Volvo dealership directly links to the adjacent Mercedes Benz site.

Question: Joshua Oehler asked if the proposed Volvo dealership actually overlaps this parcel.

Answer: Michael Wolf answered affirmatively.

Question: Joshua Oehler asked by how much.

Answer: Michael Wolf said it was approximately 4.7 acres of the 5 acres. He pointed out where the Volvo dealership was desiring to be built. He pointed out a roadway that is between Mercedes Benz and the proposed Volvo dealership.

Question: Joshua Oehler asked for some more clarification on what portion of the overall 22 acres did this comprise.

Answer: Nichole McCarty pointed out the location of the Mercedes Benz site and also pointed out the location of a vacant remnant parcel. She noted that the Commissioners might be able to see a line where the shading changes. She shared the location of the entry that would divide the two dealerships. She pointed out that a small sliver would be within Regional Commercial and the rest of the overall site is within Shopping Center (SC).

Answer: Michael Wolf said there is an existing retention basin which he pointed out was a square area showing on the site map. He said that was the northern portion of the proposed Volvo.

Nichole McCarty said that the proposed Volvo dealership is a 5 acre portion out of the overall 22 acre site and was at Study Session of the Planning Commission last month.

Question: Joshua Oehler asked if the 22 acres was just one parcel.

Answer: Nichole McCarty said that as part of this rezoning, they would be taking in the corner which was previously just Shopping Center (SC) zoning, but not in the PAD. She said it was a 4.5 acre piece and it would now be part of Rivulon as well.

Question: Joshua Oehler said he just wanted to clarify why they were looking at the full 22 acres without knowing what would be coming in the future and not just the 4.5 piece that actually has a use.

Answer: Michael Wolf said they were trying to create consistency of the R/C zoning. He indicated that the road comes down to the roundabout, all the way through Rivulon Boulevard.

He said that area is all one lot and is referred to as Lot 8. He said they are seeking to unify across the entire lot.

Question: Brian Johns asked if this would bring the zoning for this 22 acres into consistency with all the zoning to the south.

Answer: Nichole McCarty answered affirmatively.

Question: Brian Johns asked if when they zoned all the property to the south, did they have a project or building tied to the rezoning at that time or did they zone it the same way this is being requested.

Answer: Planning Manager Edwards said she had some history that might be helpful for their questions. She said that at the time that Marty De Rito came forward and the Santan Freeway was not in existence yet, there was a dream for a master planned community here. She said there was a General Plan Amendment and Rezoning for Regional Commercial and Business Park. Since that time, Nationwide and the Rivulon project have become a very large master planned project and the project was done very well. She said it continues to be excellent in every way in the community. She noted that throughout all the master planning, there was a corner that was owned by a gas station, and the remaining parcel was an LA Fitness. Those two parcels were standouts from the Rivulon Masterplan. Now, they have acquired both of those sites and are bringing the entire project, especially this significant corner, into the Rivulon Masterplan.

Comment: David Cavenee agreed that Rivulon is a wonderful development and said he is very supportive. He said he thinks Volvo would fit nicely along the Gilbert Road frontage. But his greater concern is that the reason that the General Plan had Shopping Center between Regional Commercial and the Residential was to act as a buffer. He realizes that the right-of-way for Pecos is substantial, but he still believes there was a land use buffer on purpose and he is a little concerned with removing that buffer. He understands bringing parcel 8 into conformance with the rest of Rivulon, but he said it was intentionally set up for Shopping Center on purpose to create that buffer. He said that right now, they are discussing opening the entire parcel to full Regional Commercial. He said that decision might be fine if they understood the uses, but considering they are only being presented with a single use as part of this, and that use isn't even adjacent to the residential. He said it would seem more acceptable to him at this point, to just rezone what is needed up to a point, and still leave some Shopping Center (SC) for that future buffer.

Comment: Carl Bloomfield said he has studied the General Plan and in many cases, there were just corners pulled out and suggested as Shopping Center uses. He said the General Plan is largely theoretical because it is so far before the actual timing of development. He said at the time of the General Plan, it may have made sense to do it that way, to make sure all of those uses were being addressed, but he suggested that the General Plan was probably done prior to the construction of the freeway. He said the freeway was probably planned and they probably thought a Shopping Center made sense right off the planned freeway, but he said they also didn't have any idea of Rivulon at that point either. He said he is in favor of Rivulon because they have obviously done a very good job of development so far and he would be inclined to allow them to

do what they have proven to do best. He trusts that they will take into account the appropriateness of future projects that come in across from the neighborhood.

Chair Sippel asked if the applicant had anything else to add. If they didn't, he wanted to open it up to members of the public that might wish to speak.

Comment: David Cavenee said that they are a Commission and therefore should either be aligned or at least understand each other's positions. He said his only concern is that if they accept this and approve it, they could have a high-rise hotel or a high-rise hospital or a lit up auto sales parking lot right across from some of the Town's residences. He expressed that he is a little concerned about this possibility. He did reiterate that he loves Rivulon and he thinks they are doing a great job. He said he agreed with Commissioner Bloomfield that Rivulon has done a wonderful job and he anticipates that this will continue. However, he said that he was sensitive to the homeowners and he doesn't want to impose something upon them, if it isn't necessary.

Question: Joshua Oehler said he remembered when Rivulon came before the Commission to start their portion of the development. He asked if all the standards they are currently asking for were a part of their original Rivulon variance requests.

Answer: Nichole McCarty answered affirmatively. She said that all of the proposed deviations are what are currently being built and constructed in Rivulon.

Comment: David Cavenee asked if they do approve this as a Commission, they wouldn't want to forget some of the specific changes that are being proposed that include parking lot size difference. He said he didn't have a problem with that request. He said they also wanted to spread out the parking islands to one every 12 feet, instead of one every 8 feet. He said he didn't see a need for that change, so he would oppose that change. He also called attention to the request to change the landscape with berming in lieu of screen walls for up to 50% of the length of the required screening. He said he didn't see a reason for that request either. He said that he didn't have any concerns about the reduction in bicycle parking spaces.

Comment: Joshua Oehler said he took issue with the fact that they don't have a companion case. He said that normally they would have a companion case and at least see what is coming into the future or at least see what is projected. Right now they are looking at taking this from Shopping Center (SC) to Regional Commercial (RC) and he doesn't know if they really need to change all of it to RC. He said he would like to have some conversation and additional understanding as to why the RC is needed. He said that going from Shopping Center to Regional Commercial is a huge leap in zoning and within RC, there are some dramatic buildings that can be brought forth in RC that would go right on top of the residential. As Commissioner Cavenee pointed out, there is a buffer. He isn't 100% sold on either side of this case, but he needs further discussion so that he can make a decision. He does worry about what they would be imposing on the neighbors to the north.

Comment/Question: Carl Bloomfield said he agrees with what has been said and he appreciates the comments that have been made. He mentioned the slide that showed the entirety of Rivulon. He said that he initially looked at it and he thought the Regional Commercial and the Business

Park all looked the same as one zoning for all of Rivulon for the overall 233 acres. He said that initially, he was understanding it when looking at the residential and thinking 2/3 of this is already covered with this Regional Commercial already and that all this change would do would to complete it out to the corner. He said he felt okay with that because it was already there, but now that he sees that it's Business Park, he can see more of what Commissioners Cavenee and Oehler are saying and understands and appreciates their concerns more. He said he had a question for Staff. He asked what the likelihood was, on any future cases after the zoning is approved, of the Planning Commission seeing it, since there would be so many "by rights" development that could occur on it. He asked if it was likely they would ever see anything other than just design review cases.

Answer: Planning Manager Edwards said that is correct. Once you have zoning on a property, the only reason it would need to come back, would be if there was a need for a PAD or zoning amendment for a very unique case that needed some type of deviation. She said that Commissioner Bloomfield is correct that once they go to this zoning, the uses permitted are permitted by right. It would only be seen by design review, unless it was the type of project that could be approved administratively. She reminded the Commission that they had recently approved up to 5,000 square feet to be approved administratively.

Comment: Brian Johns said that Planning Manager Edward's answer had answered his question.

Comment: Vice Chair Andersen said that he was in agreement with what Commissioner Bloomfield had just shared so eloquently.

Comment: Chair Sippel said he would have to agree with Vice Chair Andersen and Commissioner Bloomfield on this item. He said he feels like they would just be finishing what has already been done. He does understand that there could be fairly large buildings, but he thinks Pecos is a good buffer between that and the residential development. He said the other corner has Neighborhood Commercial, so there is already some buffer across the street. He said he would be in support of the case in front of them.

Chair Sippel called for a motion on Item #10, GP16-07. A **MOTION** was made by Vice Chair Andersen to approve Item #10, GP16-07, Nationwide Realty, Rivulon, seconded by Carl Bloomfield, motion carried.

Motion carried 4-2 with one abstention

Aye - Chairman Kristofer Sippel

Aye - Vice Chair Brian Andersen

Aye - Commissioner Carl Bloomfield

Aye - Commissioner Brian Johns

Nay - Commissioner Joshua Oehler

Nay - Commissioner David Cavenee

Abstained - Commissioner Gregory Froehlich

Chair Sippel then called for a motion on Item #11, Z16-20, Nationwide Realty – Rivulon.

Question: Joshua Oehler asked if they were going to discuss the deviations before calling for a motion.

Chair Sippel said they would do so. Chair Sippel asked if Nichole McCarty had anything additional she wished to add.

Comment/Question: Joshua Oehler said that he is concerned about some of the deviations from landscaping and the berming that Commissioner Cavenee had already commented on. He said he wasn't in favor of the deviations when they came through the first time, so he would be against them again. He asked if they were tying it all together if they wouldn't have the same deviations through the Regional Commercial.

Comment: David Cavenee said that if the majority of the Commission wishes to approve this item, he would encourage the Commissioners to at least hold the applicant to the standard in every respect, given that there is no specific project.

Question: Chair Sippel asked if Commissioner Cavenee had a concern that the applicant wouldn't.

Answer: David Cavenee answered that they were asking for four deviations, but at this point with no project proposed, he doesn't think that should be allowed. If they want to propose these deviations distinctly on the proposed Volvo dealership, then perhaps that would be applicable and they ought to and could consider. However, Commissioner Cavenee said that given that they are requesting it for the entire 22 acres with nothing to specify what they are going to be doing, he doesn't believe it is merited.

Chair Sippel asked for other comments.

Question: Vice Chair Andersen asked if the deviations that are proposed are consistent with what is going on around the site.

Answer: Nichole McCarty said these deviations are consistent with what is being built in Rivulon.

Seeing no further comments, Chair Sippel called for a motion on Item #11, Z16-20. Vice Chair Andersen made a **MOTION** to approve Item #11, Z16-20, Nationwide Realty – Rivulon, seconded by Chair Sippel, motion carried.

Motion carried 4-2 with one abstention

Aye - Chairman Kristofer Sippel

Aye – Vice Chair Brian Andersen

Aye - Commissioner Carl Bloomfield

Aye - Commissioner Brian Johns

Nay - Commissioner Joshua Oehler

Nay - Commissioner David Cavenee

Abstained - Commissioner Gregory Froehlich

Chair Sippel welcomed Gilbert Olgin, the newest member of the Planning Department before the Planning Commission. He invited Planner Olgin to begin his presentation on Item #12, GP16-08 and Item #13, Z16-21.

12. GP16-08, AMERICAN GROVES: REQUEST FOR MINOR GENERAL PLAN AMENDMENT TO CHANGE THE LAND USE CLASSIFICATION OF APPROXIMATELY 6.48 ACRES OF REAL PROPERTY GENERALLY LOCATED AT THE SOUTHEAST CORNER OF ELLIOT ROAD AND 29TH PLACE FROM APPROXIMATELY 2.25 ACRES OF NEIGHBORHOOD OFFICE (NO) AND APPROXIMATELY 4.43 ACRES OF RESIDENTIAL > 0-1 DU/ACRE LAND USE CLASSIFICATION TO APPROXIMATELY 6.48 ACRES OF RESIDENTIAL > 1-2 DU/ACRE LAND USE CLASSIFICATION.

13. Z16-21, AMERICAN GROVES: REQUEST TO REZONE APPROXIMATELY 6.48 ACRES OF REAL PROPERTY GENERALLY LOCATED AT THE SOUTHEAST CORNER OF ELLIOT ROAD AND 29TH PLACE FROM APPROXIMATELY 2.25 ACRES OF NEIGHBORHOOD OFFICE (NO) ZONING DISTRICT AND APPROXIMATELY 4.23 ACRES OF SINGLE FAMILY -15 (SF-15) ZONING DISTRICT TO APPROXIMATELY 6.48 ACRES OF SINGLE FAMILY -35 (SF-35) ZONING DISTRICT.

STAFF RECOMMENDATION

- A. Recommend to the Town Council approval of GP16-08, to change the land use classification of approximately 2.25 acres of real property, generally located at the SEC corner of Elliot Road and 29th Place from Neighborhood Office (NO) land use classification to Residential > 0-1DU/Acre land use classification; and
- B. For the following reasons: the development proposal conforms to the intent of the General Plan and can be appropriately 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 to the Town Council for approval of Z16-21, a request to rezone approximately 6.48 acres of real property generally located at the southeast corner of Elliot Road and 29th Place from approximately 2.25 acres of Neighborhood Office (NO) and approximately 4.23 acres of Single Family -15 (SF-15) zoning district to approximately 6.48 acres of Single Family -35 (SF-35) zoning district, subject to the following conditions:
 - 1. Dedication to Gilbert for Elliot Road right-of-way that is adjacent to the Property shall be completed prior to recordation of the Final Plat or issuance of a building permit, whichever is earlier. Failure to complete dedication prior to this date may result in reversion of the zoning to the prior zoning classification.

2. Dedication of Elliot Road shall extend 65 feet from the center line. The northern 55 feet of the 65-foot dedication shall be right-of-way, and the southern 10 feet of the 65-foot dedication shall be roadway easement.
3. Construction of off-site improvements to Elliot Road and 29th Place adjacent to the Property shall be completed prior to issuance of a certificate of occupancy or final approval of any building constructed on the Property or at the time requested by Gilbert, whichever is earlier. If Gilbert constructs the improvements required by this ordinance as part of its capital improvements program prior to development of the Property, Developer shall reimburse Gilbert for its reasonable costs of construction prior to issuance of a certificate of occupancy or final approval of any unit or building constructed on the Property.
4. Prior to the issuance of a building permit, 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 prior to the issuance of a building permit may result in reversion of the zoning to the prior zoning classification. If Developer constructs the improvements, Gilbert shall release Developer from its obligations under the Development Reimbursement Agreement.
5. 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. 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.
6. Developer shall create a Property Owner's Association (POA) or Home Owner'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. Maintenance responsibilities for common areas and open space areas shall be specified on the approved site plan or final plat.
7. Developer shall record easements to be owned by the POA or HOA for pedestrian, bicycle, multi-use or trail system purposes as determined by the final plat, at the time of final plat recordation, or earlier if required by the Town Engineer. Such easements shall be open to public access and use.
8. Prior to final plat approval, Developer shall pay for its proportional share of water and sewer mains benefitting the Property, as required by the Town Engineer.

Planner Gilbert Olgin began his presentation on Item #12, GP16-08, American Groves and Item #13, Z16-21, American Groves. He said he would be presenting a request for a Minor General

Plan Amendment as well as a Rezoning. He shared the vicinity map and indicated the location of the subject site at the southeast corner of Elliot Road and 29th Place. He said that the residentially and commercially zoned site is bound by Elliot Road to the north, South 29th Place to the west, Gilbert High School to the east, and existing residential to the south and west. He shared an exhibit showing how the parcel is broken into three separate parcels. He noted that adjacent roadways were improved, but noted that not all right-of-ways' were fully dedicated. Planner Olgin said the site is approximately 6.48 acres of land. He then shared the site history.

Planner Olgin then discussed the request for a Minor General Plan Amendment. He then discussed the Surrounding Land Use and Zoning Designations. He also noted that when they began the application process and the Notice to the Public, it indicated that the site's General Plan land use classification would be amended from 2.25 acres of Neighborhood Office (NO) and 4.23 acres of Residential > 0-1 DU/Acre land use classification to 6.48 acres of Residential > 1-2 DU/Acre land use classification. After further discussion, Staff has determined that retaining a land use classification of Residential > 0-1 DU/Acre is more in keeping with the surrounding existing residential development. He indicated that the applicant was in agreement with this minor change. He also noted that the Public Notice for the Town Council would reflect the change. He noted that this change limits density, therefore no issues will result from this recommended action.

Planner Olgin stated that the proposed amendment conforms to the overall intent, goals and policies of the General Plan. He shared a couple goals that he felt were the strongest:

- Goal 1.0 - Promotes Gilbert as a community in which to live, work, and play by encouraging the revitalization of under-utilized commercial properties.
- Goal 3.0 - Manages growth to achieve an efficient and orderly community by promoting development where resources and infrastructure are in place.

Planner Olgin then discussed the accompanying zoning case Z16-21. He said that currently the subject site consists of 2.25 acres of Neighborhood Office zoning district on the north end of the site and 4.23 acres of Single Family – 15 (SF-15) to the south. He said this application proposes Conventional zoning to rezone the subject site to Single Family – 35 (SF-35) to allow for the proposed Congregate Care Facility with a Conditional Use Permit. He pointed out that subsequent applications for the Conditional Use Permit and design review would be submitted on behalf of American Care Concepts, LLC.

He said that initially, there wasn't a lot of neighborhood comments, but recently they have received quite a bit of public concern. He indicated that during the application process, Staff looks at the proposed use and tries to determine the impact the use may have to all of the surrounding properties. With that said, Planner Olgin noted that a very large impact was made back when the High School was built in 1987. He also mentioned that a Traffic Impact Analysis had been recently conducted and determined that the proposed American Groves Congregate Care Facility is expected to generate 36 less daily trips than the existing potential zoning would generate. He indicated that a neighborhood meeting had been held on August 21, 2016 at

Freestone Recreational Center and 3 nearby residents attended, as well as 6 project team members and Town Staff. He shared that some of the neighborhood concerns were the architectural character, parking, lighting, as well as the type of use for the site, the Town of Gilbert process and the existing site conditions. He said that Staff had received two phone calls following this meeting from residents that live nearby. He said that these two residents were concerned about the proposed use changing the character of the neighborhood, as well as the potential cut-through traffic that this may generate. He said he believed that some of the neighbors were in attendance at tonight's meeting and indicated that they might wish to speak. He said that the applicant was in touch with the Gilbert High School Principal and he expressed his support of the project. Planner Olgin shared that Staff is recommending approval to the Town Council of Item #12, GP16-08 and Item #13, Z16-21 subject to the conditions listed in the report. He noted that these are standard conditions. Planner Olgin also stated that the applicant had turned in a Conditional Use Permit for the proposed Congregate Living Senior Facility. He also noted that he had received a site plan if the Commission wished to see it tonight. He offered to answer any questions the Commission might have.

Chair Sippel thanked Planner Olgin and invited the applicant up to present any additional information he might like.

Question: Chair Sippel asked if the site plan was in hard copy form.

Answer: Gilbert Olgin answered affirmatively.

Comment: Chair Sippel suggested that Planner Olgin bring up the site map so that the Commission could see it.

Ben Searle, applicant, introduced himself. He said he was a resident of Gilbert. He said he didn't have a lot to add to the presentation, but would be glad to answer any questions. He did want to note that one of his initial concerns when they purchased the site was its location next to a high school. They had never operated next to a high school, but he said that after conducting some research with other senior living providers around the country, he found out that locating next to a school is a very positive decision. He said they actually found other senior living providers who actually chose to locate next to high schools for the intergenerational connection doing so provides. He said they had also connected with Principal Stroud regarding the traffic. Mr. Searle indicated that he drives on Elliot daily, so he is very cognizant of the traffic in the morning from the high schoolers. He said that their shift change takes place in the morning before 7:00 and the high schoolers usually arrive sometime between 7:00 and 7:30, but it is after their shift change has already been completed. Mr. Searle pointed out that there is a high demand for these type of congregate care facilities with the aging population. He indicated that his company had built American Orchards, a similar facility on Lindsay. He briefly discussed the similarities and differences between the two facilities. He said there is a spectrum within senior living wherein you can create some common categories. This would include a low level, a mid-level and a high level. He said that American Orchards is a high-level assisted living facility and also has a Memory Care building. He said that American Groves, the site they are proposing tonight, will complement American Orchards, and be lower to mid-level assisted living. He said he appreciates the emotional toll that aging loved ones can have on people and they hope to help

the community by helping place their loved ones in a place that has socialization that they can't get at home, wellness checks, and dietary help.

Chair Sippel thanked Mr. Searle for his comments. He then opened the hearing to the public. He let the audience know that if anyone wished to speak, they needed to fill out a comment card and turn it in to Staff. He indicated that he had a few comment cards from members of the public who wished to speak and he advised the members to come up as he called their names. He reminded them that they would have 3 minutes in which to speak. He invited Duane Johnson to come to the podium.

Duane Johnson, Gilbert, introduced himself. He said he lives on 29th Place which is just below the proposed project. He said that the street he lives on is a unique place to live and has animals, and chickens that roam around. He said it is a narrow street and has a nice open area. He believes every city needs some open space. He said he doesn't believe the Congregate Care Facility residents will be too enthused at 2:00 a.m. when the rooster starts crowing. He said that 29th Street is a very narrow street. He said when the school is beginning and ending, the street is loaded with traffic. He said at other times, it doesn't have much traffic. He doesn't believe 29th is the best place for this kind of density. He said he hoped the Commission would have the foresight and the wisdom to see that they need to maintain some green area in the Town of Gilbert. He said the Town of Gilbert is a unique city and a very desirable place to live.

Miggy Sudyke, Gilbert, introduced herself and indicated that she lives south of the subject property. She said she lives just north of Warner off of 29th. She said they get a lot of traffic coming through from Warner up to the high school. She said she believes this will increase quite a bit of traffic with so many residents in the facility. She said 29th is a very narrow street and doesn't have sidewalks. She said they moved to Gilbert specifically to buy into that neighborhood with one acre properties and lots of green space. She thinks this facility will increase a lot of traffic. She said they will have staff, visitors, doctors, and ambulances and she doesn't think that the traffic can handle that load. She said she didn't think it was apparent, but south of Gilbert High is Mesquite Elementary. She is very concerned about the traffic increase for those children going to Mesquite Elementary. She said they see a lot of crossing on Mesquite Road. She is very opposed to this project going in.

Chair Sippel stated that he had a comment card from Terra Maughan who was opposed to the issue, but it didn't say whether she wished to speak. He asked her if she would like to speak and she came up to do so.

Terra Maughan, Gilbert, introduced herself and said that she lives at the opposite end of 29th. She said they built their home there 10 years ago because they loved the neighborhood. She said they have horses and the neighborhood has a very rural feel. She said she is familiar with the American Groves on Lindsay and Guadalupe and thinks it is a beautiful development. She thinks that facility is very appropriately placed on the edge of two very busy streets and is not backing to any residential. She also appreciated what the applicant had stated about the need for the elderly to have a community to go to. She said that Principal Stroud is a good man, and he may have given his approval to this project, but he doesn't live on 29th. She said that with an

aging population, there is no way to know what kind of ambulance traffic they will have. She is concerned about ambulance traffic, sirens, lights, and emergencies. She is also concerned about the sheer size of the development and the way it will negatively impact her property values, as well as the integrity of the neighborhood. She said she walks her dog on 29th, she has kids that ride skateboards and bicycles on it and she believes this project would be completely out of place in her neighborhood and would have a negative effect on the integrity of the neighborhood and also on property values.

David Miller, Gilbert, introduced himself and asked if the Commission would allow him to pass out a packet he had prepared. Chair Sippel instructed him to give the packets to Staff to pass out to the Commissioners. Recording Secretary Debbie Frazey passed out the packets Mr. Miller had prepared. Chair Sippel reminded Mr. Miller of his 3-minute time allotment. Mr. Miller said he lives down the street from the proposed project. He said he was especially thankful to his compatriots in his neighborhood that have come out to support the neighborhood in saying that this particular development is incompatible with the Town of Gilbert's General Plan. He suggested that the Staff Report makes some assertions that are completely incorrect and is "cherry picking" many elements to try and argue that this is in line with the General Plan. He said if you visit the entirety of the General Plan, you would see that this project is anticipated in the General Plan and the General Plan gives specific guidance. In Chapter 2, Land Use and Growth Areas, Policy 2.2 says "to encourage new residential development adjacent to large lot, low density residential, to provide lot size and width transitions between the two types of uses, so there is gradual increase of residential densities." He said that this use is not a gradual increase in residential densities. He said that this use, on the south and west sides from Town of Gilbert's lowest density classification to Town of Gilbert's highest density classification. He said there is no transition at all and it is completely incompatible with the lifestyle that they have come to this neighborhood for. He said he is from Mesa, but he moved to Gilbert in pursuit of this neighborhood. He also referred to Chapter 12, Neighborhood Preservation and Revitalization. He said this is totally absent from the Staff Report. He said that Policy 4.6 "promotes assemblage of underutilized and blighted properties for redevelopment compatible with adjacent neighborhood character." He said there is nothing compatible about an 81-unit development next to 2 acre properties. He said they are cramming as much as they can into as small a package as they can to make more money. He said this will negatively impact the street that he walks with his children on. He said that as all of the neighbors have already noted, this is a huge concern. He has included in the packet, other elements from other chapters that he doesn't have time to review, but he invited the Commissioners to take a look at infill development. He said that as an attorney, he is very concerned about the deficient notifications that have been posted. He said that in each case there is a notification that was completely deficient. He said it did not have the proper materials and was not properly posted, nor was it visible to the residents, as required. He said the notification of this public hearing was also deficient. He said it lacked the adequate sizing and verbiage and visibility requirements that the LDC requires. He said it is supposed to be readable from 100 feet, with specific words like zoning. He said this sign did not meet that criteria. Consequently, he said that they have suffered from a low turnout. He said the lack of turnout is due to the fact that people don't know because of the legally deficient and inadequate notice that has been provided in their community. As to the deficiency, he suggested that the Director has the authority to require an expansion of the notice area. He shared that the

notice area that must be mailed out is only 300 feet. He pointed out that in an area with large lots, 300 feet only gets you one house down. He said the Town probably only mailed out a handful of letters. He proposed that all notifications be mailed out to within 1000 feet in this area to accommodate the oversized lots that are the essential character of this neighborhood.

Orlando Hastings, Gilbert, introduced himself and said he is the lot directly south of the property in question. He originally chose not to speak, but as he listened, he thought there were some things that needed to be said. He said he lives in the neighborhood and is a dog trainer. He said everyone in the neighborhood has a dog that barks on the street constantly. He didn't think the elderly residents that would be living in the facility would enjoy hearing the animals. He said he is also concerned because every day at 5:00 you hear the drums at the high school. He can't imagine an elderly person living there being very pleased with hearing the drums for at least an hour every day. He said his community is made up of a group of people that work together, live together, and do things together. He said they all get along and they all work together. He doesn't think the things he mentioned would be good for the elderly people that would be living there.

Question: Chair Sippel asked if when Mr. Hastings said 5:00, did he mean 5:00 a.m.

Answer: Mr. Hastings said he meant 5:00 p.m.

Chair Sippel also shared some other comment cards he had received in opposition to the item. He had comment cards from Julia Gresham, who was opposed to the item, but did not wish to speak. He also had a comment card from Donald Johnson, who wished to speak, but Chair Sippel said the card did not indicate whether he was in favor or against the item.

Donald Johnson, Gilbert, introduced himself. He said he lives on 29th Street and is opposed to the item. He said when this was originally planned for commercial development, they were supposed to put barriers across the road, due to the fact that many of the homes had horses. This would allow the horses to walk and would make 29th Street like a cul-de-sac. He said they are a very narrow street and are actually more of fire access street according to the city people. He said he had been hit while walking on the side of the road by a speeding car. He said he had previously asked for a traffic count on the roadway because he wanted speed bumps, but the city told him no. He doesn't think it is a good idea to place a commercial building there. He doesn't think they should have to put up with this. He brought up the many ways in which the school already has an impact on their neighborhood with the band, drum corps, lights on all night long. He said this will not be good for the elderly people. He said the lights are on at the tennis courts until 10:00 or 11:00 at night. He said sometimes the football field lights stay on all night. He said the neighborhood has 2 ½ acre parcels with horses, cows, an emu, and chickens that roam, and yet the Town wants to put a senior living facility there. He asked the Town to really think about this decision.

Chair Sippel called up another member of the public who wished to speak.

David Blaser, Gilbert, introduced himself. He said he was able to see the public notice signage as he drove by. When he saw the signage, he did a little research into the proposed development.

He said that when he found out the proposed facility had the same developer that had developed the corner of Guadalupe and Lindsay, he was excited because that is a phenomenal development from a design standpoint. He also said that it serves a tremendous need in the community. He said he was driving a friend home down Mesquite on Sunday and he said there were speed bumps that slowed them down. He said his friend indicated to him that Mesquite is very busy during school drop-off and school pick-up because there is an elementary school right there. Mr. Blaser said his kids attend Gilbert High and he said he is one of those that has driven up through the neighborhood to drop his kids off in the morning. He said he thought the developer had done a traffic study which had indicated the number of trips would actually decrease with this usage. He said he finds it hard to believe that a congregate care facility would create more traffic than a high school or that it would even cause any impact, considering the already existing impact of the elementary school and high school. He said his parents are aging and he is excited to see a facility like this one going up in Gilbert. He said he looks forward to the possibility of his parents being able to reside near their grandchildren in a neighborhood where they would feel comfortable. He said he thinks it is a tremendous development and he said as a neighbor, he is in support of it.

Chair Sippel invited the applicant back up to address some of the concerns the residents had brought up. At this point, an additional member of the public said that they wished to speak. Chair Sippel asked him to quickly fill out a form and bring it up to the Staff table. Another member of the public said he had turned in a comment card, but hadn't previously requested to speak. Chair Sippel invited both of them forward to speak.

Robert Labrum, Gilbert, introduced himself saying that he lived on 29th Place. He said his lot would be directly across from this proposed building. After hearing Mr. Blaser speak, he decided he would like to speak. He wanted to share that in the morning and again in the afternoon, due to the traffic from the high school and the elementary school, he sometimes has to wait 5 minutes before he can even turn out of his driveway. He said this neighborhood consists of horse properties and is rural. He said they didn't buy there to have all this increased traffic. He said, as it is, they have school buses coming down their street. The buses and other vehicles are often speeding along the street. He believes putting 81 units in will result in the possibility of 81 people coming to visit. He said there will also be staff and doctors coming to the location. He doesn't think that putting in a commercial site right there between a high school and an elementary, is a good idea, given that they already have trouble with the traffic from the schools. He believes it will add a lot of additional traffic. He said that he didn't buy into their neighborhood for this type of use. He said his daughter's horse often gets spooked because of the speed in which people come down the street. Mesquite has speed bumps but 29th does not. He said even though it is only a half-mile street, people come down it at 40 miles per hour.

Deon Whipple, Gilbert, introduced himself. He said he lives in the neighborhood, but farther away than anyone else that has spoken. He said he thinks the new assisted living center on Guadalupe and Lindsay is completely portioned off by a canal, as well as a church and a fire station nearby. He said this is an entirely different type of area than the new one proposed in his neighborhood. The one proposed is in a residential area where there is an elementary school. He said he believes the proposed facility will bring in additional traffic no matter what the studies

say. He said people will come to visit the people that live there and they will use local streets. He finished by saying that this was not the same type of area as the other facility on Guadalupe and Lindsay. He said that one is off of two major streets, but this one will be accessed by going four different ways, many of which will be through residential neighborhoods.

Jason Barney, Gilbert, introduced himself. He said he has heard a lot of the neighbor's concerns and is mindful of those concerns. He said he lives in a very similar neighborhood to the one the neighbors have described. He said although he appreciates their concerns, he thinks there are a lot of commercial uses that could be put in this location that would very much exacerbate the traffic concerns the neighbors have mentioned, but this particular use is a very reduced intensity type of situation. He said the traffic study showed that this particular usage would be less than if an office use were to go in on the site. He said he had not seen the traffic study himself, but he thought it probably suggested that this type of use would be much lower than another type of use. He respects the concerns of the neighbors, but believes it is a quiet use and could be compatible with the neighborhood.

Chair Sippel invited the applicant back up to speak and address any of the concerns brought up this evening.

Ben Searle came back up to the podium. He said as a Gilbert resident, he understands noise and traffic. He shared that this site could be used for a Neighborhood Office and that type of usage would have a much larger impact on the neighbors. He said that the majority of the residents in the congregate care facility do not drive, but he acknowledged that they do have visitors that come to visit. He said that some of the neighbors expressed concern about ambulances. He said that most of the time when an ambulance comes to their properties, most of those calls are non-emergency calls and the ambulance would not use their sirens. He also said that ambulances don't come on a daily basis, but closer to once a week or every other week. He said he understands that no one likes increased traffic, but given the usage being proposed, he thinks the traffic created by this usage will be much less than it would be if another type of project would come in. He said they hope to be quiet neighbors.

Chair Sippel invited Gilbert Olgin to come back up to the podium. Gilbert Olgin shared the site plan on the screen, but noted that some changes had been made. He said the rendering shows three points of access, but the applicant has reduced it to two points of access. One of the access points is off of 29th Place and the major entry point would be off of Elliot. He called attention to the site plan that was provided with the Use Permit.

Question: Joshua Oehler sought to clarify that the two points of access were on 29th and Elliot.

Answer: Gilbert Olgin answered affirmatively and attempted to show the two entry points on his site plan.

Question: Joshua Oehler asked what the height limitation was for R-35.

Answer: Gilbert Olgin said he would have to look into it, but off the top of his head, he thinks it is 30', but he will check into it.

Comment: Joshua Oehler said that two stories and 30' is pretty traditional. He was just making sure from a transition perspective.

Response: Gilbert Olgin said this shows what will be allowed if the zoning is approved.

Question: Chair Sippel asked Planning Manager Edwards if she knew the height limitation.

Answer: Planning Manager Edwards said she would look it up.

Answer: Gilbert Olgin announced that the height limitation was 35' and 2 stories.

Question: Joshua Oehler said he had a question for the applicant. He said he wanted some clarification on the differences in care level. He said he agreed that the site on Lindsay and Guadalupe is a tremendously well designed site, but he wanted to understand the difference between the uses from an internal perspective between the two properties. He thought this difference in care level might help him understand traffic patterns.

Answer: Ben Searle said that the existing site on Guadalupe and Lindsay is high acuity care. If they were breaking care levels into three categories, American Groves would house low to mid-level assisted living care.

Question: Joshua Oehler asked if this meant they have more staff at the facility on Lindsay.

Answer: Ben Searle answered that they have more staff per bed at that location.

Question: Joshua Oehler asked if there was any way to account for the number of cars. He said he assumed that at the highest level of care, very few would have cars, but he wondered what the ratio of cars might be for those requiring a more mid-level of care.

Answer: Ben Searle said that generally speaking, at all three levels, when the residents leave home and move into assisted living, they have forfeited the ability to drive. Even at the lowest level of care, they anticipate that at most, 20% of their residents will actually drive themselves.

Planning Manager Edwards said she wanted to make a correction on the height allowed. She noted that in the Staff report, it reflects a height for the use that is proposed for the site, which is a non-residential use in a residential zoning district, so 35' would be correct if a home was built there, but since it is a non-residence, the height can be 45'. However, she noted that when a non-residential use is proposed in a residential zoning district, it also requires deeper setbacks.

Chair Sippel thanked Planning Manager Edwards for her clarification.

Question: David Cavenee asked Gilbert Olgin what the proposed improvements would be on 29th to accommodate the second entry. He asked if it would be widened or if it would be getting curbs and gutters or sidewalks.

Answer: Gilbert Olgin said they will need 55' for the road improvements, but they will put an entry point right off the center of the project for Right-in/Right-out to accommodate traffic. He said there is also a light that exists off of Tiger Drive.

Question: David Cavenee asked to clarify that it would be widened to accommodate more of a commercial-like use.

Answer: Gilbert Olgin answered affirmatively.

Question: David Cavenee asked to clarify that the primary entrance was off of Elliot.

Answer: Gilbert Olgin answered affirmatively.

Question: David Cavenee asked if Planner Olgin was saying they had a Right-in/Right-Out only there and if curbs would be put in there.

Answer: Gilbert Olgin said that is what is being proposed. He said there would be more details as they get through the Use Permit and design review application.

Question: Gregory Froehlich said he wanted to clarify if the Right-In/Right-Out was on 29th or on Elliot.

Answer: Gilbert Olgin said that it was on Elliot.

Question: Gregory Froehlich asked if, for left-turn movements, they will have to take 29th.

Answer: Gilbert Olgin said this is what is proposed, but it may change through the process if it shows that it wouldn't adequately handle the traffic.

Gilbert Olgin shared a detailed map which indicated locations of other congregate care facilities within proximity to the site within the Town of Gilbert.

Chair Sippel asked if there were any other questions for the applicant or Staff.

Comment/Question: Brian Johns said he feels for the neighbors. He lives in a community like this and he owns horses and has chickens that roam. He asked if everything west of the property was commercial zoning or was it residential.

Answer: Gilbert Olgin said he believes it is all residential.

Question: Brian Johns asked if there was commercial that fronts the side.

Answer: Gilbert Olgin said that on the corner of Elliot and Lindsay there is some commercial property on the northeast corner, but other than that he isn't aware of other commercial.

Question: Brian Johns asked what kind of uses could be located within Residential Commercial.

Answer: Gilbert Olgin said that without the Land Use Code in front of him, he couldn't list all the potential uses, but he said typically a neighborhood office commercial facility would have uses that would be low traffic and small in nature. This type of use would likely generate more traffic than what is being proposed.

Question/Comment: Brian Johns asked if this was considered an upzoning or a downzoning. He asked if they would be getting more traffic and more impact. He said if this came into his neighborhood, he would be concerned, but whatever went into the parcel, could have caused a concern. He said they did just recommend a case over on Higley where they had temporary access into the neighborhood that wasn't used on a regular basis. That pushed all the access to the front of the property. He said maybe they could work with the applicant to try and push the traffic toward the Elliot Road entrance. He said he drives by the Guadalupe and Lindsay property every day. He thinks it is an amazing facility. He said if they bring that level of design

and that level of commitment to this site, it should increase the value of the property. But that being said, he wouldn't want this next to his house either. He thinks Staff should work with the applicant to affect 29th as little as possible.

Chair Sippel called for any additional questions or comments for the applicant or Staff.

Question: Vice Chair Andersen asked what the age range of the residents was.

Answer: Ben Searle said the average age range is 85-95.

Question: Vice Chair Andersen asked if there would be a memory care component at the proposed facility.

Answer: Ben Searle said there would not be memory care at this facility. The facility at Guadalupe and Lindsay has a memory care unit.

Question: Vice Chair Andersen asked if it was independent living.

Answer: Ben Searle said it was an integrated approach, but most of them would be assisted living, but sometimes they might have a husband and wife, where one is independent and the other needs assistance, but approximately 20-25% are independent living and 75-80% need assistance.

Question: Vice Chair Andersen said that the 75-80% would be 85+ years old, so that would mean they will not have cars. He asked if anyone that was independent and living in the facility, would drive their car back and forth into the facility.

Answer: Ben Searle said that Vice Chair Andersen was correct.

Question: Vice Chair Andersen asked Linda Edwards if the building height of 45' would add another story making it 3 story.

Answer: Linda Edwards said it just says 45'.

Comment/Question: Vice Chair Andersen noted that there are two means of vehicular access to the site: A main one off of Elliot and a secondary one off of 29th. He asked if the one off of 29th was for the fire department.

Answer: Gilbert Olgin said it is a secondary point of full access. He said it would be used by vehicles, but was not set aside for an emergency-only type of access point. He said these details will be worked out further as they go over the Use Permit.

Question: Vice Chair Andersen asked if there was any chance of taking the secondary means of access on 29th and using that as emergency access only. He was trying to see if there was a way to pull all the traffic off of 29th and force it onto Elliot, so that the only traffic that goes down 29th would be emergency vehicles.

Answer: Gilbert Olgin said that they would address these comments during the Use Permit. He said going over details of the site plan is a bit premature until they know the outcome of the zoning and the General Plan Amendment.

Question: Chair Sippel asked Linda Edwards about the public notice postings. He asked if she would address the way this public notice takes place.

Answer: Linda Edwards said they have affidavits in the file that show that there was appropriate legal public notice, both with the distance for 300' and 1000' for HOA's. A 4' x 8' sign was placed on the property. She mentioned the resident that had suggested that the Planning Director has the opportunity to expand the notice of public hearing beyond the site, is correct. She said she is the Planning Manager and for this case, they mapped out the area and she and Planner Olgin made sure that they had provided notice to more than just the immediate neighbors. She said that because the resident has noted their concern, she can expand that distance for the Town Council public hearing. She said with the Planning Commission's direction, they could expand the notice area even more.

Chair Sippel said he thought that would be a good idea to expand the outreach and provide extra notification before the case goes before Town Council. Seeing no further questions for Staff or the applicant, he closed the public hearing and brought it up to the dais for further discussion.

Comment: David Cavenee sought to clarify the history of the property. He reviewed that in 2005, it was all zoned SF-35 so it could have accommodated 8-9 residential lots. He noted that it then was changed to be Neighborhood Office (NO) with some residential and now the request is that it go back to SF-35. He said it is his impression that Neighborhood Office would generate more traffic than a facility like this. He said he lives in a neighborhood adjacent to the American Orchards facility and drives by it all the time. He said although he knows that people come and go from that facility, he personally has never once seen anyone come out of the driveway. He doesn't believe these facilities are heavily trafficked. He said if you mapped out the residential and there were 8-9 residences in SF-35, each home would likely have 3 cars per house, and would still result in a minimum of 24 cars impacting that same site, even if it was just residential. He said in all of the time he has sat on the Planning Commission, he hasn't heard any complaints after one of these facilities have gone in about the traffic impact that they create. He said he believes this is because the traffic impact is minimal. He said that he appreciates all the residents coming out, both for and against the case. He said the Commission values their input. He said he believes that the site will be addressed off of Elliot, so those visitors that come to the facility, will be approaching it from Elliot and he thinks this will help keep more traffic on Elliot. He said they will likely not come within the 30 to 45 minute windows of difficulty when the school is loading and unloading. He said he is in these lines at Gilbert High every day. He said during non-peak times, people will not have to look for alternate routes to enter this property. He does not believe they will get a massive increase on 29th. He said that with the 29th road improvements, it may even be better for the residents and hopefully safer for everyone including the children and the animals in the neighborhood. He thinks that given the alternative (NO), this option is a better use and he is in favor of the project.

Comment: Joshua Oehler said that he agrees with Commissioner Cavenee about the traffic itself. He thinks it is important to try and move the traffic onto Elliot and try to eliminate as much traffic as possible from using 29th. He said he thinks that through the process of working with Staff and the applicant, they can come up with some solutions. He believes the applicant wants to be a good neighbor. He said they can't really discuss the site plan at this point, because they

are only looking at the zoning, but at the zoning level, this usage should not increase the traffic counts from what is already there. He said that a medical office would truly have more traffic and more chances of people driving down 29th. He said a traditional office has people coming and going. He thinks working with the applicant to address some of these concerns is the best solution. He said he appreciates the neighbors coming out to voice their support or concern.

Comment: Carl Bloomfield said he has been associated with Gilbert for at least 25 years and he has lived in Gilbert for 14 years. He said he had noticed this neighborhood over the years and reminded everyone that at one time it had a unique house in the form of a geodesic dome, that has since been demolished. He said that this property has been an eyesore for a very long time and hasn't been helping anyone's property values. He believes that this proposed facility has a slight risk that it could increase traffic, but he believes the results of the traffic analysis and doesn't think this use will increase the traffic. He stated that he is in favor of changing the zoning because he feels comfortable knowing what the facility is going to be. He believes this project will increase property values.

Comment: Vice Chair Andersen said he is in agreement with the three Commissioners that have spoken. He is in support of the rezoning project.

Chair Sippel thanked the community for coming out. He reminded those in the audience that the Planning Commission was a recommendation body only and that there would be another opportunity to voice concerns at the Town Council meeting. He asked Linda Edwards if they had the date when this item would be before Town Council. It was determined that the Town Council meeting would be March 2, 2017. At that meeting, Town Council will make a final decision on this piece of property.

Comment: Chair Sippel said that his opinion on this case, is that they have a known applicant that has already built a stunning project in Gilbert. He said that he agrees with Commissioner Bloomfield that the property has been kind of an eyesore and this will help revitalize that property in particular. He said he is in favor of the zoning change.

Chair Sippel called for a motion on Item #12, GP16-08.

David Cavenee made a **MOTION** to approve Item #12, GP16-08, American Groves, as listed in the Staff Report, but he stipulated that Staff would expand their area of coverage of Public Notice as recommended by Planning Manager Edwards; seconded by Carl Bloomfield, motion passed unanimously.

Motion passed 7-0

Chair Sippel then called for a motion on Item #13, Z16-21. A **MOTION** was made by David Cavenee to approve Item #13, Z16-21, American Groves: Request to Rezone; seconded by Carl Bloomfield; motion passed unanimously.

Motion passed 7-0

Chair Sippel announced that they would take a short break before moving on to Item #16, Z16-19. He told those members of the public that were here for Item #16 that he appreciated their patience and willingness to stay so late. He stated that if the Commission would allow each of the 45-50 people that wished to speak three minutes in which to do so, the meeting would not be over until 11:00 or later. Instead, he asked those members of the public that wished to speak to select a representative or two during the break to speak on their behalf. He stated that the representative would be allowed 10 minutes in which to speak. He told the audience that the break would last for approximately 7 minutes.

Chair Sippel reconvened the Regular Meeting at 8:47 p.m. after the short break he had called. He then invited Planner Amy Temes to begin her presentation on Z16-19.

16. Z16-19: REQUEST TO AMEND THE TOWN OF GILBERT LAND DEVELOPMENT CODE, CHAPTER I ZONING REGULATIONS, DIVISION 4 GENERAL REGULATIONS, ARTICLE 4.5 SUPPLEMENTAL USE REGULATIONS, SECTION 4.504 GROUP HOMES FOR THE HANDICAPPED, SECTION 4.5015 RECOVERY RESIDENCE, AND DIVISION 6 USE DEFINITIONS RELATED TO THE STANDARDS FOR SEPARATION, OCCUPANCY, AND OTHER REQUIREMENTS IN COMPLIANCE WITH THE FAIR HOUSING ACT.

STAFF RECOMMENDATION

Group Homes

Purpose

The purpose statement did not include the language that Recovery Residences did about preventing concentration of such facilities. *Town staff believes that the purpose statement should be amended to read “**Purpose. The purpose of these regulations is to permit handicapped persons to reside in single family residential neighborhoods in compliance with the Fair Housing Act, while preserving the residential character of the neighborhood and prevent a concentration of such facilities in any particular area so as to institutionalize that area**”.*

Maximum Occupancy

The definition of a family allows up to 5 unrelated persons living together by right. The State of Arizona limits Group Home occupancy at 10 persons. *Town staff believes that a reduction in the maximum allowable in a Group Home to 5 (unless permitted by State license for up to 10) would be acceptable to preserve the residential character of the neighborhood since reasonable accommodation is provided in the Land Development Code.*

Separation Distances

When other communities were asked how they came by their distancing requirement dimension, many were not sure where the number came from other than possibly in one case it was a division of a mile. It appears through further research that a typical community block length has been used as a determining factor for separation distancing and has been upheld in court. Staff used the existing GIS mapping to analyze block distance across Gilbert. It became clear that a majority of the block lengths fell between 800 to 1200 feet. Only a few were over 1200 feet and some of the blocks in older areas or more dense developments fell below 800 feet. *Staff finds that 1200 feet is still an acceptable dimensioning distance.*

Licensing

Licensing of *Group Homes* is one way to track the homes within the community as is a registration requirement that includes a copy of the state license. The Town does not currently require a *Group Home* to obtain a Town business license. The registration process in place allows for tracking within the GIS mapping system and yearly Fire Department Inspections verifies that it is still operating and in compliance with safety codes. Asking for a copy of the State license would allow for another tracking mechanism and document what the State has approved the home under and the number of occupants that are legally allowed. *Staff finds that it would be helpful to require a copy of the State license as part of the registration process and will allow staff to track the facility through the State on-line system.*

Building and Fire Requirements

Asking that a *Group Home* require fire sprinkler is a precautionary measure. Without knowing specifically what each home's resident's disabilities are over time, it is a blanket measure to assure safety for any resident within a *Group Home*. However, fire sprinklers are not required for most homes within Gilbert except if they do not meet distancing, access or service requirements. *The Building and Fire requirements for ADA compliance and fire sprinklers must be retained for the safety of the residents.*

Recovery Residences

The current LDC requirements are consistent with State law provisions for Structure Sober Living (ARS 9-500.38).

Maximum Occupancy

The definition of a family allows up to 5 unrelated persons living together by right. However, the LDC use definition for *Recovery Residence* clarifies that "individual residents do not live together as a single housekeeping unit". The State of Arizona does not require licensing of *Recovery Residences* nor does it limit the number of occupants. The LDC currently states the number of residents, including the house manager shall not exceed 2 residents per bedroom with up to 3 residents in the largest bedroom in the home and a maximum of 11 residents in the home. *Staff recommends reducing the maximum number to 5 to be consistent with a licensed Group Homes and to preserve the residential character of the neighborhood since reasonable accommodation is provided in the Land Development Code.*

Separation Distances

As stated, previous distancing requirements appear to be based on typical block lengths and a majority of the blocks within Gilbert were between 800 feet and 1,200 feet. Staff has not found a reason that it would be inappropriate to combine the tracking of *Group Homes* and *Recovery Residences* onto a single map and require, as many of the other cities do, not only distancing between like facilities but distancing between *Recovery Residences* and *Group Homes*. The existing facilities would be grandfathered. In the future there would only be one map distancing the facilities. *Staff finds that 1,200 feet is still an acceptable dimensioning distance and that the dimensioning should be between like uses and between Group Homes and Recovery Residences.*

Licensing

Licensing of *Recovery Residences* is a way to track the homes within the community since there is no state license for these facilities. In Gilbert, the registration process in place allows for tracking within the GIS mapping system with renewal of the required business license, which allows staff to document if the home is still operating. *Staff finds that it is appropriate to continue to require registration and licensing of Recovery Residences.*

REASONS FOR THE RECOMMENDATION

1. **Modify the Group Home purpose statement to include the prevention of concentration of Group Homes and Recovery Residences.**
2. The proposed zoning amendment conforms to the General Plan as amended, any applicable Specific Area Plan, neighborhood, or other plan and any overlay zoning district.
3. All required public notice has been conducted in accordance with applicable state and local laws.
4. All required public meetings and hearings have been held in accordance with applicable state and local laws.
5. The proposed rezoning supports the Town's strategic initiative for Community Livability. It supports the motto "Gilbert: Clean, Safe, Vibrant."

STAFF RECOMMENDATION

For the following reasons: the proposed regulations will provide for better land development, code clarity, and maintain the public's welfare, the Planning Commission moves to recommend approval to the Town Council for Z16-19, a request to amend the Land Development Code regulations providing for:





- a. A reduction in the maximum allowable in a *Group Home* to 5 (unless permitted by State license for up to 10), excluding staff.

- b. Require a copy of the current Group Home State License be on record with the Town of Gilbert. Any changes to the State license must be provided to the Town for record purposes.
- c. Minimum Separation Distance from **both** *Group Homes* and *Recovery Residences* shall be 1,200 feet.
- d. A reduction in the maximum allowable in a *Recovery Residence* to 5, excluding staff.

Planner Amy Temes began her presentation on Z16-19. She said that this request was for a Text Amendment to the Land Development Code (LDC). She shared that this request was to amend the standards and definitions relating to the location, development, and operation of Group Homes and Recovery Residences. She pointed out that the Commissioners had been given a lot of those definitions in their Commission Packet and she would not be going over each item covered in their packet, but rather would be giving an overview. She provided some background on Group Homes and Recovery Residences. These Group Homes are for handicapped or disabled people. These disabilities can be physical, mental or for those recovering from an addiction, such as a substance abuse addiction. These homes give those with disabilities the opportunity to live in a residential setting. The existing Land Development Code (LDC) makes provisions for group living and provides standards for those facilities to follow.

Planner Temes briefly discussed the Fair Housing Act of 1968, as well as the Fair Housing Amendment Act of 1988. This Act prohibits discrimination concerning the sale, rental, and financing of housing based on race, religion, national origin, sex, (and as amended) handicap and family status. Amy Temes shared that Arizona law mirrors the Fair Housing Act and subsequent amendments to allow investigation of care for those within the facility and procedure processes. She indicated that the disabled were a protected class under this Act. She said in tonight’s discussion, she would be focusing on the disabilities that are protected under the Act. She also shared that the law states that it is unlawful not to make Reasonable Accommodation in rules, policies, practices or services when such accommodation may be necessary to afford a person or people with disabilities the equal opportunity to use and enjoy a dwelling and live in a neighborhood setting. This applies to employers, owners of Group Homes, and municipalities. The Town of Gilbert allows for Reasonable Accommodation.

Planner Temes then shared a table she had compiled detailing the different group living environments in Gilbert:

Land Use Type	SF-43 and SF-35	SF-15	SF-10	SF-8	SF-7	SF-6	SF-D and SF-A	MF/1 and MF/M	Neighborhood Comm.	Community Comm.	Shopping Center	General Comm.	Regional Comm.	Heritage Village Center	Neighborhood Office	General Office	Business Park	Light Industrial	General Industrial	Public	Gateway Village Center	Gateway Business Center	
 Permitted																							
 Permitted /Limitations																							
 Use Permit																							
 Not Permitted																							

Planner Temes noted that each type of home is required to register and receive zoning confirmation. She also noted that currently both types of homes have minimum separation requirements of 1,200 feet. She pointed out that this means that there must be 1,200 feet from one Group Home to the next Group Home and from one Recovery Residence to another Recovery Residence. She said that there is not currently a separation between Group Home to Recovery Residence. She also indicated that the external appearance of the facility needed to look like a house in both types of facilities. She noted that Group Homes are required to meet certain building codes, fire sprinklers must be installed, and yearly fire inspections must take place. Planner Temes stated that this is due to the fact that those that live in a group care environment and require oversight for everyday life, may or may not be able to evacuate a building in a timely manner. Planner Temes noted that a Town Business License was required for a Recovery Residence, but not for a Group Home for the Handicapped, because a state license is required for a Group Home.

Planner Temes shared a process chart which indicated what is required of each of these two types of residence homes. She noted that the process for the Group Homes was more prolonged than that required of the Recovery Residence. She said this is often due to the fact that Recovery Residences often do not require tenant improvements, such as a tenant with a physical disability needing an ADA improvement to the home. She further noted that Recovery Residences do not require the installation of fire sprinklers. Planner Temes also pointed out that Group Homes also require some additional process steps as indicated on the chart.

Planner Temes pointed out that Group Homes have been in the LDC since the 1980's, indicating that there are currently 114 Group Homes within the Town of Gilbert. She indicated that Recovery Residences were added in 2012 and there are currently 12 Recovery Residences in the Town. She informed the Commission that based on the total number of households in the Town of Gilbert, this meant that 0.17 percent of the total households in Gilbert are Group Homes or Recovery Residences. She also noted that of the Group Homes that exist, only 2 have requested and been granted Reasonable Accommodations. Planner Temes then shared some of the community concerns that Town Staff has been presented with. These include:

- Trash
- Parking
- Excessive traffic
- Concerns about the number of residents residing in the facility
- Missing persons or persons wandering about unattended
- On-going noise issue due to residents living within the facility
- Lewd language or gestures
- After hours' light, noise and smoke
- Type of residents residing in the facility
- Concern regarding sex offenders
- Concern regarding illegal and prescription drugs
- The number of police calls for service

- Concern that the Town of Gilbert was attracting more *Group Homes* and *Recovery Residences* than neighboring or similar communities and that Gilbert was becoming too saturated.

Planner Temes indicated that the issues that Staff hears about most often are: Trash, parking problems, excessive traffic, too many residents in the facility, ongoing noise, lewd language and behavior. She also noted that they have been told of lots of calls for police services at some of these homes.

She then discussed some of the Operator concerns. These included their concerns about combining definitions for Group Homes and Recovery Residences. Planner Temes noted that currently, the definitions are separate. She pointed out that the Operators seem to be aware of the standards that the Town has and that, in general, they seem to be working well with the Town. The Operators do not desire to see the standards changed. She said they are also concerned with elongating the process, as this would be a hardship and they are also not in favor of increasing separation distance. She further shared that the Operators also expressed concern about limiting the occupancy, as this would create a financial hardship for them. She noted that if a Group Home is in operation today, they would be grandfathered under the prior guidelines.

Planner Temes shared the research that Staff had completed by interviewing other municipalities. The municipalities researched were Avondale, Chandler, Mesa, Prescott, Peoria and Scottsdale. She noted that Avondale no longer regulates Group Homes or Recovery Residences and they now defer to State and Federal law. She noted that most of the municipalities allow these types of residences in Single Family, but one restricted them from Multi-family and one required a Conditional Use Permit. She pointed out that it was somewhat difficult to acquire information from other municipalities because of varying language used to identify this type and other types of group living arrangements. For example, a Group Home in Chandler is what the Town of Gilbert refers to as a Shelter Care. She said that due to the lack of a common definition, it was very difficult to achieve an apples-to-apples comparison. She then shared some of the additional findings from these interviews. Scottsdale had the lowest density with 0.2 percent of those surveyed, and Prescott had quite a number of Group Homes and Recovery Residences with 0.37 percent. She indicated that separation distance requirements ranged from 750 to 1320 feet. She said that separation distance had historically been based on block length, so the typical block length in the community was a factor. She noted that the Town of Gilbert block length typically ranges between 800 to 1200 feet. She noted that all the municipalities capped their occupancies at 10, except for Chandler, who capped theirs at 5. Four of the six communities required some form of business licenses for both Group Homes and Recovery Residences. The Town of Gilbert currently only requires business licensing for Recovery Residences.

Planner Temes noted, as far as asking for a description of the type of facility, this can be done in a narrative, but asking about the type of residents can be a challenge, due to the fact that you are not supposed to ask about medical issues or disabilities. She indicated that several of the municipalities said they did not like to ask for this information because this is a little too personal, considering some of the regulations in place. She said that all the municipalities complied with building and fire regulations, but only one municipality required sprinklers. She

said that three cities did not offer Reasonable Accommodations, but noted that most of those cities were looking at opening up their codes in the near future. Planner Temes then referred to a packet of emails she had printed for the Commissioners, in which residents expressed their concerns with these types of facilities. She summarized some of the concerns expressed: residents feel trapped in their own home; the noise, smoke, profanity and fighting disrupt their daily life; they fear for their children; they believe that their neighborhood safety is being compromised; they don't feel comfortable allowing their children to walk to a friend's house any longer; and these homes are operating as businesses, not as homes, and it is not creating a good environment. The residents also felt that these homes are responsible for an excessive amount of emergency calls and the residents indicated that they support the Staff Recommendations.

Planner Temes then detailed Staff's Recommendations as noted above (with changes highlighted in yellow and/or bold). She stated that the Purpose Statement for Group Homes was being changed to mirror that for Recovery Residences, in an effort to avoid a concentration of facilities in a particular area. She noted that this change speaks to separation distance and will keep these types of residences separated so that there are not multiple facilities clustered on the same block. She said they are not proposing any changes to the registration requirements for Group Homes. She also said they were not proposing any changes to the zoning confirmation, which is required by the State. She said that Staff was not asking to change the separation distance from 1200 feet, but they were now asking to distance it from Group Home to Recovery Residence, as well as Group Home to Group Home and Recovery Residence to Recovery Residence. Planner Temes also noted they are requesting a change to an occupancy limit of 5, unless permitted by the State of Arizona for up to 10. If a State licenses a home for an occupancy of 7, they would be allowed to have 7 occupants. However, the Town would have a cap of 5, unless the State allows for more. In terms of exterior appearance, Staff is not asking for any change and the residence should look like a house. Staff is not requesting any changes to building and fire requirements, and will still be asking for sprinklers in Group Homes. Staff is requesting a change that would require the Town to receive a copy of the State License. Staff feels this would be a good way to have the State License on record, so if Staff desired to go into the state system and look something up, they would have a starting point. Staff is not proposing any change to parking requirements, tenancy or Reasonable Accommodations.

In regards to Recovery Residences, Staff is not asking to change the registration process or zoning confirmation. She pointed out that they will still be required to have an Operation and Management Plan. She stated that Staff was not proposing changes to separation distance, but between like uses from Group Home to Recovery Residence, as well as Group Home to Group Home and Recovery Residence to Recovery Residence. In terms of maximum occupancy, Staff recommends reducing the maximum number to 5 (excluding staff), to be consistent with a licensed Group Home and to preserve the residential character of the neighborhood since Reasonable Accommodation is provided in the Land Development Code (LDC). Staff is not proposing any changes to exterior appearance requirements, parking requirements, or tenancy. A business license will still be required and Staff is not proposing any change to Reasonable Accommodations.

Additionally, Planner Temes said that Staff is recommending amending the definition of Group Homes to remove 10 or fewer from the definition. Staff prefers to keep the number in the supplemental regulations portion of the Code, and not within the definition. She said that Staff recommends approval to the Town Council of Z16-19, subject to Staff recommendations.

Chairman Sippel thanked Planner Temes for her presentation. He informed the public that the Town was the applicant in this case, so they would forgo the applicant presentation. He then stated that they would move to the Public Hearing. He indicated that he had received several comment cards from members of the public who wished to speak. First, he called up those members who wished to speak that were opposed to Z16-19. He invited Jeff Marsh to the podium to speak.

Jeff Marsh, Tempe resident, introduced himself to the Commission and audience. He said that he has a business affiliation with the Town of Gilbert, noting that he has a business license for a Recovery Residence in the Town of Gilbert called J & J Sober Living. He shared that he has had a reputable, registered company operating in the Town of Gilbert for the past four years from 2012 to 2016. He said his Recovery Residence has only had one police call during those four years. He pointed out that they operate as model neighbors, with quiet hours at 10:00, curfew at 12:00, and no parties. Mr. Marsh also shared that they have a zero tolerance for drugs and alcohol. He said he feels that this text amendment change is a quick resolution to try to fix an ongoing problem of other Recovery Residences who are not managed well and are operated by fly-by-night operators. She shared that these type of operators are coming in and causing concerns based on the way they run their Recovery Residences. He said he feels that amending this issue and limited the occupancy to 5 people is an effort to try and put a patch on a problem, but stated that he doesn't believe it is going to work. He said he was one of the original contributors to the law that was created back in 2012 as a combined effort with the Town of Gilbert, HOA Boards, concerned citizens, and Recovery Residence Operators. He said this group came up with the original proposal that was amended into law four years ago. Mr. Marsh indicated that the only area he has a concern with is the limiting of residents. He is not concerned with any of the other proposed changes. He said that this is an effort to placate the people that are experiencing problems with these types of homes. However, he noted that there is an exemption allowed for Reasonable Accommodation and that people will go ahead and file for that, and likely receive their Reasonable Accommodation. He said with this exemption, there is really no reason to limit the number of residents that are already there. He also stated that Federal law supersedes state and city law, so you cannot limit the number of residents in a house by city law because of the Disability Act. Mr. Marsh pointed out that to do so, would open up the Town to possible lawsuits and legal action. He said this has happened in Sedona and other cities in California and across the country. He said he would like this motion to be put to rest, and instead establish the same type of committee with HOA's, concerned citizens, the owners, and that this committee could work on coming up with a better solution.

Chair Sippel then called Derrick Harriman, who had turned in a comment card stating that he was opposed to this item. Chair Sippel asked Mr. Harriman if he wished to speak and he said he did not. However, it was determined that Mr. Harriman had incorrectly filled out his comment card and was actually in favor of Z16-19. Chair Sippel then indicated that he had approximately

40 comment cards from members of the public that were in favor of the item. He asked if the two representatives that the collective group had chosen, would come up and share some of the group's concerns in the allotted 10 minutes. After that time, Chair Sippel said he would open up the floor to other members of the public and he would allow anyone that had additional concerns to share, that had not been brought up by the representatives, could do so. Chair Sippel indicated that he would allow each person an additional minute in which to speak.

The first person of the two-person team selected to speak on behalf of the members of the public, Gary DeBerge, of Gilbert, introduced himself. He said he serves as the President of the Gilbert Council of Community Associations (GCCA). He said that GCCA was a non-profit Arizona corporation and a consortium of Gilbert HOA's that have joined together to identify issues of concern to their members. He then shared some of the concerns of the GCCA's membership. He indicated that their membership has had a number of observances, many of which are mentioned in the Staff Report, as well as others not mentioned. First, they have observed tenants loitering in parks and greenbelts, and behaving in such a way that residents will not let their children use those areas. Secondly, they have seen suspected drug deals taking place on the streets between tenants of the homes and people in parked cars. Third, they have observed disrespect to neighbors. Fourth, they have observed tenant-upon-tenant violence. Mr. DeBerge also noted that these behaviors do not meet the condition of preserving the residential character of their neighborhoods. As a result of these reported observances, 17 months ago, the Board of Directors of GCCA created a committee called the Committee for the Responsible Operation of Group and Recovery Homes in Gilbert, Arizona. The Board assigned two purposes for this committee. First, they would provide input to help ensure that the conditions and the operations within these homes produced the best outcomes for the residents. He said that the committee has come to the conclusion that the number of tenants should be reduced to better provide needed improvements to care, as well as control of the people in the facilities. He stated that one group home even had a death. Secondly, the committee was tasked with providing input to ensure these homes are operated in such a manner so as to maintain peace and harmony within the surrounding neighborhood and community. He pointed out that all too many of the tenants exhibit horrible behavior, unbecoming of what is normal in a Gilbert residential setting. He said that the members of GCCA are rightfully disturbed by this unacceptable behavior that destroys the character of their neighborhoods. Therefore, Mr. DeBerge stated that the GCCA appeals to the Commission to set the maximum number of tenants to 5 per home and further requested that there be no grandfathering for existing facilities. Additionally, he shared that the GCCA requests an increase of the separation radius to 1500 feet with no overlap of Group Homes and Recovery Residences.

The second person of the two-person team selected to speak, Lee Krieger, who lives in the Spectrum Community of Gilbert, introduced himself. He said he lives behind one of these group homes and stated that it had been in operation for approximately two years. He said his observations would be limited to his experience and the experience of fellow residents that live near this particular group home in his neighborhood. He pointed out that he has also conducted some research in the larger community, in which he has heard similar observations from other HOA's around Gilbert, and has found his experience to be a fairly consistent one. He said he believes it would be an anomaly to find a group home that is run effectively and doesn't

negatively affect the surrounding neighbors. He indicated that since this group home came into his neighborhood, the home has had approximately 200 emergency service responses sent to the house, an average of 8 responses per month. He pointed out that these emergency service responses include police, fire, and ambulances, and all use taxpayer money to support these calls coming to the house. Mr. Krieger said this also creates commotion in the neighborhood with the noise of the sirens. He shared some of the reasons emergency services have had to respond were due to too much noise at all hours of the night, and tremendous amounts of profanity at any given moment of any given day. He shared that just today, he had to bring his daughter back into the house from the backyard area, because residents of the group home behind them were engaged in a cussing match. Mr. Krieger revealed other instances of concern: yelling at neighbors, some of the residents of the group home chasing children, the residents loitering around the neighborhood, and trash and debris strewn in a neighboring yard. The concern that he and his fellow neighbors have, is that, with the current occupancy allowances, there are two groups of people being negatively affected. First, the neighbors are being affected by the strife and disruption of their formerly peaceful neighborhood. Second, the residents of these homes are being negatively affected with such a high occupancy rate allowed in these homes. He pointed out that one supervisor on-site is not able to effectively supervise the number of tenants, and this results in fighting and turmoil amongst the tenants. He said he has many witness accounts, videotapes, audio recordings and photographs documenting the many incidents that have taken place. These witnesses have seen residents jumping over the side fence and visibly sneaking away to meet a car around the corner. Upon returning, these group home residents jump back over the side fence. He believes having such a high occupancy rate affects the quality of the supervision, and therefore the care of the residents. He also noted that both the lack of separation between these homes and the high occupancy allowed negatively affects the neighborhoods they are housed in. He said that he and his fellow neighbors are requesting that the allowable resident occupancy limit be reduced to 5, as it is in Chandler, and this would provide better oversight and care for the residents, while minimizing negative impact on the neighbors. Mr. Krieger then shared that he and his fellow neighbors were concerned for their property values, as well as the feeling a lack in their sense of security. He said that he personally has four children and he doesn't even use his backyard, because he would have to explain the colorful language coming over the fence. He also prefers that his children not be subjected to the amount of smoke coming over the fence.

After this 2-person team finished their presentation, Chair Sippel noted the presence of another 2-person team that had also been appointed to speak to the Commission. As it was apparent that this 2-person team of representatives had been chosen to speak by other members of the public in the audience, Chair Sippel said he would allow them the same 10 minutes to address the Planning Commission.

Steve Blum, of Gilbert, came to the podium to speak. He indicated that a group home would be coming into the neighborhood he lives in. He said although it has not even opened up as a group home yet, it was already having a negative impact on their neighborhood, as it is being used as a Sales and Training Center, where potential investors are bused into the neighborhood. He said he was recently out walking and one of the buses was double-parked in the street and many of the attendees were parked under the "No Parking" signs. He noted that this happened after the

owner of the home assured the neighbors that there would be no negative impact to them. He said he had worked for the fire department for 30 years and he has lots of compassion for people in need, but he believes this is forcing a mixed-use that is not compatible. He appreciates the work that Staff has done in proposing the changes. He said he did not want to be characterized as someone who didn't have compassion for these groups. He said he has grandchildren who live near a group home for younger children with behavior issues and the items mentioned by Mr. Krieger definitely describe their own experience. He said that his grandchildren now no longer go out in the front yard because of the type of behaviors that are exhibited by those in the group home. He said the group home coming into his neighborhood will be senior living and as designed right now, will have 10 residents. He said he was glad that Staff was requiring sprinklers, but noted that most people die from smoke inhalation, pointing out that the sprinklers will not take care of smoke issues if an elderly resident lives on the second floor. He also said that the owner of the group home going into his neighborhood had previously stated that the neighbors were not open to discussion. He said this is a complete mischaracterization. He said that this owner actually came to a neighborhood meeting, even though he was not on the agenda, and took over the meeting and filibustered it. Additionally, Mr. Blum shared that he was very cold about the neighbor's concerns and his wife had suggested that it was "too bad" after the neighbors had said that this home didn't feel right in their neighborhood. He said that his neighbors were not trying to be unreasonable, but they were trying to protect the neighborhood. He said that 25 neighbors came out for the first meeting, and that there were over 10 at tonight's meeting, but some of them had to leave due to the length of the meeting. He shared that these people have come out in strong support because they want to protect the neighborhood, but he believes the owner is just trying to protect his business. He said that business regards are taking priority over the neighborhood concerns. He thanked Staff for the work they had done on this item and further expressed his support for this change. He said that he and his neighbors planned to be in attendance when the case comes before Town Council.

Jay Blanchard, of Gilbert, introduced himself. He indicated that he had been a resident of Gilbert for 30 years. He said he and his neighbors live in Circle G, south of Baseline and west of Lindsay. He said they are in support of the changes in the text amendment. He noted that there are several kinds of group homes in Gilbert and across the valley. He said those homes they find particularly troubling are those group homes in residential neighborhoods where the homes are being gutted and flipped into group home businesses. He said that many of these group homes are not owner occupied, but are instead nothing more than commercial dormitories under control of out-of-state investors. He pointed out that this was the case of the group home in their neighborhood. He said that any search of the internet will bring up guides on how to start group homes, how to seek group home investors, and how to circumvent complaints. He said they find it almost unbelievable that group home businesses are allowed to gut and build homes in residential neighborhoods like Circle G. He said this, in effect, sets up two CC&R's, one for residents and their families, and it sets up CC&R's for group homes. Mr. Blanchard said this is not appropriate in the kind of neighborhoods they live in. He said that many of his Circle G neighbors were in attendance at tonight's meeting and noted that they had 40 in attendance at the last meeting.

Chair Sippel thanked Mr. Blum and Mr. Blanchard for their presentation. He then called for anyone wishing to speak, who had new information to provide in favor of this item. He invited those members of the public to come up to the podium, indicating that he would allow each additional person to have one minute to address the Commission.

Carly Harriman, of Gilbert, introduced herself. She said that she lived in The Bridges neighborhood in Gilbert and that other neighbors from her neighborhood were also in attendance. She said that there is a group home in their neighborhood and one of the major concerns they have is the location and proximity to schools. She said that she understands the Fair Housing Act, but she is concerned for the safety of the children. She said this home is on a main artery and lots of elementary school children ride or walk by the home. Ms. Harriman shared that many parents are afraid to allow their children to walk or ride on their own any longer due to their concerns with the inappropriate behavior taking place at the group home. She said this has reduced the neighbor's sense of security, which is the one of the reasons many people moved to Gilbert in the first place. She said that she and her neighbors desire to feel safe in their neighborhood and they no longer feel safe.

Robert Orteiz, of Gilbert, introduced himself. He said he is also a resident of The Bridges. He said that he and his wife came to the area on a Spring Training/ house hunting trip in 2015. They researched the Town of Gilbert and found it to be the "2nd Safest City in the U.S.," so they decided to buy a home here. They found The Bridges to be a lovely community and purchased a home in the neighborhood. He said they were one of the first to move into the community and they were very happy there. Shortly thereafter, they found out that there was a Group Home right across the street from them. He said that they had never heard of a Group Home prior to this and they were shocked. He said they sunk their life savings into this home and now they are seeing their investment jeopardized.

Leonard Saavedra, of Gilbert introduced himself, noting that he lived in the same neighborhood as Jay Blanchard, in Circle G. He said that he supports the work that has been done by Staff on this issue and he supports Z16-19. He said he is a realtor in the East Valley and the safety aspect of these types of homes, concerns him. He said these investors are buying these homes with cash and circumventing the inspection period. He said the home in his neighborhood had a history of mold, but is the same home planned to house elderly people. He is concerned that some of the elderly people will die from the effects of the mold that had not been properly mitigated. He said that this buying and flipping of homes means they are not necessarily taking all the precautions with regard to mold and other things of that nature and this greatly concerns him.

Additionally, the following members of the public presented comment cards: In opposition: Amie Otis-Mendoza. In support: Andrew Thatcher, Michael Medrano, Kari Hansen, Glen Lyon, Jennifer Lyon, Joanne Knapp, Craig Echeveste, Kristi Lopez, Kris England, Nancy Reasoner, Tim Reasoner, Michele Millman, Dean Horvath, Nancy Horvath, Derrick Harriman, Gint Grabauskas,

Chair Sippel thanked those that had spoken. He then invited Planner Amy Temes to come back to the podium to provide any additional comments. Seeing that Planner Temes had no further comments, Chair Sippel opened it up to questions from the Commissioners.

Question: Joshua Oehler asked if some of the different types of homes had mentors. He asked if these mentors were considered staff. He said he was involved in the discussions four years ago. He wondered if people that had successfully completed the program then lived on site within the home and if they were considered staff or if they were still a part of the home.

Answer: Amy Temes said it was her understanding that in most Group Homes, they have staff that comes in and they don't reside on the premises. She said there might be some Group Homes that are owner-occupied, but most of the homes have staff that comes and goes from the facility. She answered, in regards to Recovery Residences, they are required to have a caretaker on staff. Planner Temes indicated that this person could be the mentor, but would be in addition to the number of occupants allowed, noting that the actual operators and staff do not count toward the occupancy limit.

Question: Joshua Oehler asked about the fact that the Town could set the number of occupants through their licensing process, but he sought to clarify that the number of occupants would be determined by the state business license. He wanted clarification as to whether the Town could set a limit of 5, but the state could increase the number to 10.

Answer: Amy Temes said that the way Z16-19 is written, it would defer to the state, if the state allows greater than 5 occupants. This would allow for the Town not to have to do a Reasonable Accommodation every time. In regards to Recovery Residences, they would require Reasonable Accommodations to exceed the number of 5.

Question: Joshua Oehler asked if this was based on number of bedrooms.

Answer: Amy Temes said that the way the code is written currently, the occupancy of 10 plus 1, was based on the number of bedrooms, but with the proposed changes, the occupancy would no longer be based on bedrooms, but would be a flat number.

Question: David Cavenee asked if a Reasonable Accommodation would be automatically granted upon submission of the state license or if there would be a more formal process, where some would pursue it and some would not.

Answer: Amy Temes said that if the state grants occupancy in a Group Home of 6, 7, 8 or up to 10 (which is the cap), they would not have to apply for Reasonable Accommodations from the Town of Gilbert. The Town would defer to the state license and they would have a copy of it on file. For Recovery Residences, the cap would be 5 and if the desired occupancy is greater than that, they would have to pursue Reasonable Accommodations. She said that while it isn't a given, based on federal law, there is not a lot that you can base a denial on.

Question: David Cavenee sought to clarify if an owner of a Recovery Residence would have to submit a request and Staff would have to look at it and approve it administratively.

Answer: Amy Temes answered affirmatively.

Question: Vice Chair Brian Andersen noted that previously Planner Temes had shared that the Town would like to have a copy of the Group Home or Recovery Residence business license and one of the reasons was so that if the Town had questions they could contact the State Board. He asked what type of questions they would be asking the State Board that would make it necessary to have the business license.

Answer: Planner Temes said that the Town would like to have a copy on file because the license would provide details on the number of occupants the home is licensed for, as well as an overarching description of the facility and the care that would be given there. It would also detail any other requirements the state may have requested from the facility. It would also provide a license number that would help them track these homes through the state system. If a large number of calls for service were coming out of one particular home, they would be able to contact the state and having this information would make it easier to discuss the particular home in question. She also shared that by doing this, they will be able to access the state database, extract information in an Excel file format, and search for certain things and find out information about certain Group Homes and Recovery Residences.

Question: Vice Chair Andersen asked what would happen to the facilities in Gilbert currently in operation that are licensed for 6-10 people.

Answer: Amy Temes said that these homes would be grandfathered in, if they were licensed and legal prior to the change. If one of these homes closed and desired to reopen, they would have to comply with the new Code.

Question: Chair Sippel asked if the access to the state licensing information would also provide information on any complaints the facility might have had, so that the Town would be able to see if a particular home had multiple complaints filed.

Answer: Amy Temes said she did not believe that the access to licensing information would provide that information. She said she could verify this if Chair Sippel would like her to.

Question: Mary Harris asked to clarify that the grandfathering wasn't a permission to the location, but rather to the business, so if the Group Home changed operators, the grandfathering would no longer apply.

Answer: Amy Temes said she would defer to legal counsel to answer that question.

Answer: Attorney Phyllis Smiley said that before she answered the question, she wanted to clarify that they had been talking about business licenses for the State and the Town. She stated that the business license for the Town of Gilbert is completely different from the license for the State. The license for the State is not a business license, it is a Group Home license. In order to receive a Group Home license, certain regulations must be met, there is an application process, and there is a vetting process for the operators. She pointed out that some of the complaints that had been heard from residents tonight, would be properly addressed to the State Department of Health Services or D.E.S. who oversee the Group Homes. That way, if a Group Home operator is not operating their Group Home in compliance with their license, the State could take some enforcement measures. Regarding the situation asked by Ms. Harris, regarding a change of ownership of a Group Home, if it is a State-licensed home, she believes there is a process the new owner would have to go through with the state, and after doing so, they would likely be licensed for the same number of people. She did acknowledge that she would need to research

this further, but she believed this would constitute a continuation of the use and would still be grandfathered.

With no further questions or comments from the Commission, Chair Sippel closed the public hearing. He reminded the public that this would be a recommendation to Town Council, so there would be an additional opportunity for the members of the public to speak when the case comes before the Town Council. Linda Edwards shared that February 16 was the date of the Town Council meeting. He then asked for comments from the Planning Commission.

Comment: Carl Bloomfield said he heard the concerns and complaints of the residents gathered tonight. He pointed out that a Group Home covered a wide variety of conditions and concerns, and there was a reason why they are in a community. He acknowledged that many people are seeing negative effects, but that this is not always the case. He said he is in favor of this amendment and thinks it will help. However, he is concerned that an Operator can come and apply and go through the process and essentially get what they were intending to get anyway, but he does believe this is a step in the right direction. He said that there are Group Homes for a specific use and for a specific condition that everyone would agree would be valuable additions to the community, but then there are others which are creating a very negative public perception.

Comment: David Cavenee said that he is concerned with the occupancy issue because he doesn't believe it changes much, given the Reasonable Accommodation provision. He does believe it is a necessary step toward trying to improve the circumstances. He thanked Attorney Smiley for the guidance she had given for those members of the public that were experiencing problems with Group Homes. He said that it would be helpful to know who to reach out to at the state level. He also indicated that he believed if someone had problems with a Recovery Residence, that they would file a police report. Commissioner Cavenee said he believed the distance between uses was another step in the right direction to help ensure that there is not too much clustering of these types of homes. He said he was in support of Z16-19.

Comment: Joshua Oehler said he agreed with Commissioners Bloomfield and Cavenee. He said that four years ago when they first dealt with this, they had a lot of good discussion and at that time, the occupancy was set at 10. He said he always wondered how that number of occupants was going to work in a neighborhood setting. He believes these homes should blend into the neighborhood. He said he doesn't know if changing it to 5 really changes anything, with the Reasonable Accommodation provision, but he believes it is a step forward. He believes both the owners and neighbors should continue their discussions. He said he appreciates the members of the public coming out and appreciated the opportunity to receive input from both sides of the issue. He said he was in favor of Z16-19.

Comment: Vice Chair Andersen said that he believes the amendment is fair to both sides. He believes it is fair to the residents, in that reducing the occupancy could alleviate some of the current problems, and he believes it is fair to the Operators, because it allows them to continue operating. He pointed that Staff could have written the amendment with more restrictive limitations, which would have made it much harder on the Operators.

Chair Sippel called for a motion. A **MOTION** was made by David Cavenee to approve Z16-19; Request to amend the Town of Gilbert Land Development Code as presented.

At this point, Attorney Phyllis Smiley asked Commissioner Cavenee to clarify that the motion was to recommend approval to the Town Council.

A **MOTION** was made by David Cavenee to recommend approval of Z16-19; Request to amend the Town of Gilbert Land Development Code as presented, seconded by Brian Johns, motion passed unanimously.

Motion passed 7-0

Chair Sippel thanked everyone in attendance for staying late to provide input.

ADMINISTRATIVE ITEMS

Administrative items are for the Commission/Board discussion and action. It is to the discretion of the majority of the Commission/Board regarding public input requests on any Administrative Item. Persons wishing to speak on an Administrative Item should complete a public comment form indicating the Item Number on which they wish to address. The Commission/Board may or may not accept public comment.

- A. **Minutes** – Consider approval of the minutes of the Study Session and Regular Meeting of January 4, 2017

Chair Sippel asked for a motion to approve the minutes of the January 4, 2017 Study Session and Regular Meeting. A **MOTION** was made by Brian Andersen to approve the minutes, seconded by Mary Harris, motion passed with two abstentions.

Motion passed 5-0 with abstentions from David Cavenee and Carl Bloomfield as they were not in attendance at last month’s meeting.

COMMUNICATIONS

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

None

- C. **Report from Council Liaison**

Council Liaison Brigitte Peterson thanked everyone for providing great discussion in what turned out to be a very long evening. She reported that the “Digital State of the Town” address had taken place approximately three weeks ago. She said it was very well attended. She suggested that if anyone hadn’t viewed it, it was a great way to catch up on what is going on

currently in Gilbert, as well as what is coming up in the future. She said she hoped everyone continues to hashtag #chooseGilbert.

D. Report from Planning Manager on current events.

Linda Edwards thanked the Planning Commission for their experience, their patience and their ability to understand what the community wants and needs, and their ability to come to agreement amongst themselves.

ADJOURNMENT

With no further business before the Planning Commission Chair Sippel adjourned the Regular Meeting at 9:48 p.m.

Kristofer Sippel, Chairman

ATTEST:

Debbie Frazey, Recording Secretary