



**TOWN OF GILBERT  
PLANNING COMMISSION**  
Gilbert Police Department - Amphitheatre  
75 E. Civic Center Drive, Gilbert, AZ  
October 20, 2022

**COMMISSION PRESENT:**

Jän Simon, Chairman  
Noah Mundt, Vice-Chairman  
David Blaser  
William Fay  
Brian Andersen  
Lesley Davis  
Anthony Bianchi  
Lisa Gage (Alternate)  
Charles Johnson (Alternate)

**STAFF PRESENT:**

Veronica Gonzalez, Principal Planner  
Eva Cutro, Planning Manager  
Keith Newman, Senior Planner  
Noah Schumerth, Planner II  
Samantha Novotny, Planner I

**COUNCIL LIAISON PRESENT:**

Scott September

PLANNER	CASE	PAGE	VOTE
Veronica Gonzalez	GP22-05	2	4-3
Veronica Gonzalez	Z22-05	2	4-3
Keith Newman	GP22-06	12	7-0
Keith Newman	Z22-06	12	7-0

**CALL TO ORDER OF SPECIAL MEETING**

Chair Jän Simon called the October 20, 2022, Special Meeting of the Planning Commission to order at 6:00 p.m.

**PLEDGE OF ALLEGIANCE**

Chair Simon led the Pledge of Allegiance.

**ROLL CALL**

Planning Manager Eva Cutro called roll and determined that a quorum was present.

**OATH OF OFFICE**

Lisa Gage swore to the Oath of Office, led by Council Liaison Scott September.

**1. APPROVAL OF AGENDA**

Chair Simon called for a motion to approve the agenda.

**MOTION:** On a motion made by Vice-Chair Mundt, and seconded by Commissioner Andersen, it was moved to approve the agenda, as presented. **Motion passed 7-0.**

## COMMUNICATIONS

### 2. COMMUNICATIONS FROM CITIZENS

At this time, members of the public may comment on matters within the Town's jurisdiction but not on the agenda. Therefore, the Commission's 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.

There were no communications from citizens.

### 3. REPORT FROM COUNCIL LIAISON ON CURRENT EVENTS

There was no report from the Council Liaison.

### PUBLIC HEARING (CONSENT)

All items listed below are considered the public hearing consent calendar. The Commission/Board may, by a single motion, approve any number of items where, after opening the public hearing, no person requests the item be removed from the consent calendar. If such a request is made, the Commission/Board shall then withdraw the item from the public hearing consent calendar for public discussion and separate action. Other items on the agenda may be added to the consent calendar and approved under a single motion.

There were no items on the consent agenda.

### PUBLIC HEARING (NON-CONSENT)

Non-Consent Public Hearing items will be heard at an individual public hearing and acted upon by the Commission by a separate motion. Anyone wishing to comment in support of or in opposition to a Public Hearing item may do so during the Public Hearings. If you wish to comment on a Public Hearing Item, you must fill out a public comment form, indicating the Item Number 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.

4. **GP22-05 THE RANCH:** Request for Major General Plan Amendment to change the land use classification of approximately 302.4 acres generally located at the northwest corner of Power and Warner Roads from approximately 56.5 acres of Industrial (I), 144.7 acres of General Office (GO) and 101.2 acres of General Commercial (GC) to 255 acres of Industrial (I), 16.5 acres of General Office (GO) and 30.9 acres General Commercial (GC). Veronica Gonzalez (480) 503-6720.
5. **Z22-05 THE RANCH:** Request to rezone approximately 302.4 acres generally located at the northwest corner of Power and Warner Roads from approximately 56.5 acres of Light Industrial (LI), 144.7 acres of Business Park (BP) and 101.2 acres of General Commercial (GC) to 255 acres of Industrial (LI), 16.5 acres of Business Park (BP) and 30.9 acres General Commercial (GC) all with a Planned Area Development overlay zoning district (PAD) to increase accessory structure height. Veronica Gonzalez (480) 503-6720.

### STAFF RECOMMENDATION

- A. Recommend to the Town Council approval of GP22-05 The Ranch, to amend the General Plan land use classification on approximately 302.4 acres generally located at the

northwest corner of Power and Warner Roads from approximately 56.5 acres of Industrial, 144.7 acres of General Office and 101.2 acres of General Commercial to 255 acres of Industrial, 16.5 acres of General Office and 30.9 acres of General Commercial; 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 Z22-05 The Ranch, to rezone approximately 302.4 acres generally located at the northwest corner of Power and Warner Roads from approximately 56.5 acres of Light Industrial (LI), 144.7 acres of Business Park (BP) and 101.2 acres of General Commercial (GC) to 255 acres of Light Industrial (LI), 16.5 acres of Business Park (BP) and 30.9 acres of General Commercial (GC), all with a Planned Area Development overlay zoning district (PAD), subject to the following conditions:

- 1) Dedication to Gilbert for Elliot Road, Power Road and Warner Road rights-of-way that are adjacent to the Property shall be completed prior to or at the time of recordation of the final plat or sooner as required by the Town Engineer. Failure to complete dedication prior to the effective date of this ordinance may result in reversion of the zoning to the prior zoning classification.
- 2) Dedication of Elliot Road shall extend 65 feet from the monument line, except for that portion of Elliot Road 630 feet west of Power Road, for which dedication shall be 75 feet from the monument line. The dedication of Warner Road shall extend 70 feet from the monument line. The dedication of Power Road shall be 65 feet from the monument line, except for that portion of Elliot Road 630 feet north of Warner Road and 630 feet south of Elliot Road, for which dedication shall be 75 feet from the monument line.
- 3) Dedication to Gilbert for Wren Road right-of-way from the center of Warner Road to 1,380 feet north that is adjacent to the Property shall be completed prior to or at the time of recordation of the final plat or sooner as required by the Town Engineer. Dedication of Wren Road shall extend 40 feet from the monument line.
- 4) Construction of off-site improvements to Warner Road, Power Road, Elliot Road and Wren 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 unit or building constructed on the Property.
- 5) Prior to issuance of the first building permit or at the time of recordation of the final plat, Developer shall enter into one or more Development Reimbursement and Lien Agreement(s) 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 one or more Development Reimbursement and Lien

- Agreement(s) may result in reversion of the zoning to the prior zoning classification. If Developer constructs the improvements required under the Agreement(s), Gilbert shall release Developer from its obligations under the Development Reimbursement Agreement(s).
- 6) 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.
  - 7) Developer shall construct, at the Developer's expense, dedicated right turn lane(s) and any associated improvements at any proposed access on Warner Road, Power Road, and Elliot Road into the site. The minimum geometry of the dedicated right turn lane(s) shall be 80 feet storage, 85 feet taper, and 12 feet wide or as described in the approved traffic study for Warner Road and Elliot Road. The minimum geometry of the dedicated right turn lane(s) shall be 160 feet storage, 125 feet taper, and 12 feet wide or as described in the approved traffic study for Power Road. Improvements shall be completed prior to issuance of a certificate of occupancy or final approval of any unit or building constructed on the Property or at the time requested by Gilbert, whichever is earlier.
  - 8) Developer shall design and construct, at the Developer's expense, a traffic signal at Power Road and approximately half mile north from Warner Road. Improvements shall be completed prior to issuance of a certificate of occupancy or final approval of any unit or building constructed on the Property or at the time requested by Gilbert, whichever is earlier.
  - 9) Developer shall contribute 50% towards the design and construction of a traffic signal at Warner Road and Swan Drive if the Town decides to construct. This contribution shall be memorialized in a Development Reimbursement and Lien Agreement and fully executed prior to issuance of a certificate of occupancy or final approval of any unit or building constructed on the Property or at the time requested by Gilbert, whichever is earlier.
  - 10) Developer shall design and construct, at the Developer's expense, a traffic signal at Elliot Road and approximately a quarter mile west from Power Road. Improvements shall be completed prior to issuance of a certificate of occupancy or final approval of any unit or building constructed on the Property or at the time requested by Gilbert, whichever is earlier.
  - 11) Developer shall remove, at the Developer's expense, the traffic signal at Elliot Road and Cactus Yards Way at the same timeframe as the installation of the traffic signal at Elliot Road and approximately a quarter mile west from Power Road. Improvements shall be completed prior to issuance of a certificate of occupancy or final approval of any unit or building constructed on the Property or at the time requested by Gilbert, whichever is earlier.
  - 12) Developer shall design and construct, at the Developer's expense, the new internal roads north of Elliot Road for Cactus Yards per the direction of the Town's Engineer. Improvements shall be completed prior to issuance of a certificate of

occupancy or final approval of any unit or building constructed on the Property or at the time requested by Gilbert, whichever is earlier.

- 13) Developer shall design and construct the first drive aisle from Power Road, Warner Road, and Elliot Road right-of-way to the distance described in the traffic study at all full-access locations adjacent to the Town's right-of-way.
- 14) Developer shall design and construct dual egress lanes at any full-access locations onto the Town's right-of-way from the site. Improvements shall be completed prior to issuance of a certificate of occupancy or final approval of any unit or building constructed on the Property or at the time requested by Gilbert, whichever is earlier.
- 15) 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. Maintenance responsibilities for common areas and open space areas shall be specified on the approved site plan or final plat.
- 16) Developer shall record easements to be owned by the POA 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. In recognition of the modifications to the underlying zoning regulations set forth herein, such easements shall be open to public access and use.
- 17) Prior to final plat approval, Developer shall pay for its proportional share of water and sewer mains benefitting the Property, as required by Ordinances 1892 and 2146.
- 18) 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:

<b>LI Accessory Structures</b>	<b>Required per LDC</b>	<b>PAD Request</b>
Height (ft.) within the building envelope	55'	65'

- 19) The Project shall be developed in conformance with the following additional conditions related to the design and construction of any Project and accompanying development:
  - a. There shall be a minimum 65'-wide open space tract along the west property boundary extending from Wren Drive north to the Town of Gilbert well site at Elliot Road, with pedestrian connectivity to the commercial zoned area along Elliot Road.
  - b. Amenities within the western open space tract shall include a pedestrian trail, staggered double row of trees, bench seating, white split rail fence, and 8' tall block wall to match the Morrison Ranch design theme in color and design.

- c. Tree-lined public streets and detached sidewalks in the right-of-way shall provide 1) trees evenly spaced, 40-foot on center, 2) date palm trees at primary project entrances, 3) white split rail fencing, and 4) landscaping between the curb and detached sidewalk.
  - d. The open space tract adjacent to the west property line, including landscaping and the associated amenities, shall be installed in the first phase of development.
  - e. There shall be no signage on the west side of any industrial zoned building within 500' of any residential zoning district.
  - f. There shall be a minimum 212' industrial building setback from the western property line where adjacent to any residential zoning district.
  - g. No individual building within the Business Park zoned area shall exceed 50,000 sf.
  - h. The final site plan for the industrial development shall be in substantial conformance with Exhibit 5 dated October 18, 2022.
  - i. Industrial building facades visible from public view, or within 250' of any residential zoning district, shall have enhanced architecture by incorporating a minimum of three (3) different building materials. Building offsets, reveals, texture recesses, building projections, masonry piers, or other architectural treatments may be considered as part of the enhanced architectural design.
  - j. Industrial building facades visible from public view, or within 250' of any residential zoning district, shall not have blank, uninterrupted wall lengths exceeding 100' without including at least two (2) of the following: change in plane, change in texture or masonry pattern, windows, trellis with vines, or an equivalent element that divides the wall into human scale proportions.
  - k. Public entrances to buildings shall be clearly identifiable by design and shall incorporate functional shade elements such as awnings and canopies to create a comfortable entry experience while addressing pedestrian scale.
  - l. Vary building height, by providing at least two (2) changes in height or roof forms that are varied over different portions of the building through changes in pitch, plane, and orientation. Flat roofs or facades with a horizontal eave, fascia, or parapet, in excess of 100' in length, must provide vertical modulation.
  - m. The bay doors for Building 14 shall be properly screened from Power Road in an aesthetically pleasing manner.
- 20) The developer shall reserve 2 (two) well sites that will be owned and operated by Gilbert. The first well site will be approximately one acre in size with approximate length of 250 feet and width of 150 feet and is generally located near the proposed

- main entrance to the Project on Power Road, in the vicinity of the existing agricultural well site. The second well site will be 150 feet by 150 feet and is generally located near the intersection of Elliot Road and the Owl Drive alignment. These well sites shall be reserved for future acquisition of fee title by the Town of Gilbert for a purchase price based on fair market value through purchase or eminent domain. Fair market value shall be based on an appraisal prepared by a qualified appraiser approved by the Town and Developer. The reservation shall expire upon recordation of the final plat for the final phase of the Project, unless a purchase contract has been entered into for the well sites prior to recordation of the final plat or an eminent domain action is pending.
- 21) This property, due to its proximity to Phoenix-Mesa Gateway Airport, will experience aircraft overflights, which are expected to generate noise levels that may be of concern to some individuals. The mix of aviation activities and types of aircraft expected to be located and operate at the Airport now and in the future include: scheduled and unscheduled commercial charters, commercial air carriers and commercial air cargo operations, all of which are expected to use large commercial aircraft; general aviation activity using corporate and executive jets, helicopters, and propeller aircraft; aviation flight training schools using training aircraft; and military activity using high-performance military jets. The size of aircraft and frequency of use of such aircraft may change over time depending on market and technology changes.
  - 22) An aviation easement shall be recorded concurrently with or prior to the recordation of a subdivision plat or issuance of a building permit holding the Town, the public, and the Phoenix-Mesa Gateway Airport Authority harmless from any damages caused by noise, vibration, fumes, dust, fuel, fuel particles, or any other effects that may be caused by aircraft landing, departing or operating at or near a designated Airport, not including the physical impact of aircraft or parts thereof.
  - 23) Any proposed permanent, or temporary, structure is subject to an FAA filing for review in conformance with CFR Title 14 Part 77 (Form 7460) to determine any effect to navigable airspace and air navigation facilities. An FAA determination notice of no hazard to air navigation shall be provided.

Commissioner Blaser recused himself from the discussion and vote on Item 4 GP22-05 and Item 5 Z22-05.

Principal Planner Veronica Gonzalez stated that stated the site is approximately 302 acres and is located between Elliot and Warner Roads adjacent Power Road. Planner Veronica gave a definition of what constitutes a major general plan amendment and an outline of the process. The general plan designates this area as part of the Power Road Growth Corridor, which is designated as a prime area for significant employment purposes. The east portion of property is also within Area II of the Vertical Development Overlay Area, which allows additional height of up to 60' in the General Office and Business Park zoning districts and 75' for regional commercial and office uses. Recent projects in the area include some smaller industrial developments as well as a new Fry's grocery store, to the west is Morrison Ranch II which is a multi-family development, Warner Meadows, and Warner Commons. To the southwest is a new subdivision called Keystone is forthcoming, and there are two smaller

industrial developments proposed in the south. The general plan and rezoning requests have been modified since the October 5, 2022 hearing. The proposal now includes a General Office land use classification and Business Park zoning designation. The revised proposal increases the amount of general commercial and business park while reducing the amount of industrial from the previous request. The proposal places the general commercial along the Elliot Road frontage and adds approximately 16.5 acres of Business Park along the west property line. The business park and general commercial portions of the site are only conceptual site plans at this point. There is a 65' wide landscape buffer along the west property line, with a pedestrian trail, a double row of trees, bench seating, white split-rail fence and a block wall designed to meet the Morrison Ranch theme. Approximately 22% of the industrial site will be landscaped. The rezoning request does include a PAD overlay and one deviation has been requested for the height of accessory structures from 55' to 65'. Building and landscape setbacks and landscape area exceed Town requirements. The applicant completed their public participation. Two virtual neighborhood meetings were held. Approximately seven property owners were in attendance for the first meeting and approximately 130 at the second meeting. A follow up in-person meeting was held on September 28 where approximately 97 residents attended. There has been resident opposition on building height, lack of transition to current residential, proposed land use not meeting the Morrison Ranch vision, noise, and truck traffic. After the Commission makes a recommendation, the requests are scheduled to be heard at the November 15th Town Council hearing and a Design Review hearing to be determined in the future.

Commissioner Fay stated that the presentation indicates that the statutory requirement is for Council to act before the end of the year; however, his understanding is that this rule had changed to be one year following the filing date. Planner Veronica Gonzalez responded that the State statute required major general plan amendments to be heard within the calendar year at the time this was submitted, which is why staff are adhering to this requirement. The legislature adopted new requirements for one year from filing that became effective in September, 2022.

Applicant Adam Baugh stated that the general plan document includes a map along with goals, policies, objectives and estimations and that it is meant to be a guide for future development. However, general plans adapt and change over time, so there is a mechanism to allow amendments. The general plan category for this property does not make sense. The land use configuration of Business Park, General Commercial, and Industrial is not viable and there was no plan associated with it at the time it was adopted. The proposed plan includes business park, general commercial and industrial, which are the same uses on the property today but in a different configuration. Arizona's manufacturing has doubled between 2015 and 2021 and leads the nation in chip manufacturing investment. The current zoning has been in place for 13 years without any and is obsolete so it makes sense. Back then, it made sense to put commercial there as large as it was. But now there are three power centers south of the 202. It doesn't make sense to have commercial in the middle of a property when all the commercial goes to the arterial intersections or splitting industrial zoning on two ends or have business parks scattered throughout. This pattern is not marketable now. What makes sense is to match the zoning pattern along Power Road today. From north of Elliot down to the 202 is an industrial corridor with some retail uses. Significant



economic opportunity is a goal that is identified in the general plan. As new industries are promoted, the town is propelled forward. Buildings can be designed for modern infrastructure and needs. 300 acres is a rare opportunity for industry with freeway access in three directions. This project will promote the town's fiscal health and allow employees to work and live in the same town. This also solves a demand problem, which is a 1.4% vacancy in the industrial land uses in the town. The initial proposal was 17 buildings with two retail shopping centers. That was a plan that created a lot of consternation. We've heard a lot of feedback, have evaluated that and knew revisions needed to be made to the plan. We've gone from 19 acres of retail to 31 acres of retail. The retail has extended further west on Elliot Road. The greatest change we made was along the western edge where we have 16.5 acres of Business Park that were not in the previous proposal. Building height in business park is 35 feet. In addition to the business park is a 60'-80' wide landscape tract on the exterior of the development. This plan reduces the amount of industrial acreage, brings in new business park, lowers the heights of the buildings and makes them smaller adjacent to the residents and increased the retail. Pedestrian connectivity has been provided into the retail area. The benefit of this change is that buildings 8 and 11 have reduced height and are buffered by smaller buildings to the west. This change tries to be responsive and is intentional about how this fits in the Morrison Ranch character area.

Commissioner Bianchi stated that the proposal was updated very recently and asked if there was time to have it vetted with staff. Adam Baugh responded that this is happening fast because there was an effort to be responsive to the feedback from the last meeting. Staff and traffic engineering have reviewed the plan, but there are some conceptual elements which do not require a lot of review at this time. They've met with a variety of neighbors and have crafted stipulations to go beyond what the plan looks like.

Chair Simon read comment cards in opposition to this item from the following residents who did not wish to speak: Deborah Grover, Ross Chambers, Brent Henningson, Steve Pomeroy, Patty Pomeroy, Karen Mumford, Kimber McArthur, Brett McArthur, Melanie Phillips, Donald Albrecht, Jeremy Brechen, Daniel Law, Lonny Citizen, Camille Porter, Brandon Porter, Travis Evans, Tom Arndt, Tracy Boyd, CJ Cottrell, Karen Arndt, Kim Zigler, Ron Zigler, Mike Sleezer, Robert Calhoun III, Tom Everett, and Brittney Carlson. The comment cards expressed concern with the zoning change, non-stop noise, the size of the development, the proximity to homes, violation of the general plan and character of Morrison Ranch, lack of added value to the community, and the project decreasing property values in the neighborhood.

Chair Simon stated that the following residents submitted online opposition to this item: Stephanie Lyons, Jamie Gundersen, Alison Strom, Nick Strom, Eric Benson, Michelle Tessendorf, Jesse Nagel, Stuart Zander, Megan Zander, Neil Wada, Charles Montano, Elaine Montano, LuAnne Price, Peter Pham, Andrea (last name not provided), Rowan Sutton, Joshua Buchanan, Jennifer Buchanan, Adam Hrtanek, Susan Wender, Hillary Price, Brittany Fullmer, Cody Fullmer, Danielle Hrtanek, Johnny Price, Ethan Dulgarian, Stephanie Dulgarian, Leah Dulgarian, Robert Dulgarian, Meagan S., Anthony S., Vaishali Wagh, Morgan Smith, Brad Smith, Ryan Dulgarian, Eric Petersen, Lisa Ballard, Ed Gitlitz, Diana Rydell, Joseph Steel, Kelli Steel, Matt Olwine, Jana Olwine, Nick Fortis, Kelly Fortis, Alex Nicholson, Mike Lehrer, Lauren Lehrer, Josh Castro, Noelle Castro, Chris Cox, Stephanie Cox, Mason Dulgarian, Daniel Ruiz Garcia, Elizabeth Ruiz, Addison Dulgarian, Michael Gentry, Bryant Smith, Edward Emery,

Christine Emery, Kim Sangalis, Erik Gundersen, Jackie Cottrell, James Carreno, Adrianna Lee, Sarah Vulcano, Bret Armstrong, Daniel Strazza, Julie Benz, Becky Petersen, Melanie Phillips, Donald Albrecht, Nicole Albrecht, Kelly Dickson, George Dickson, Kevin Yip, Christine Mecham, Scott Mecham, Maria Terberg, Gary Terberg, Alexander Terberg, Daniel Symcox, Debbie Patrick, Greg Patrick, Jonathan Xavier, Karen Feils, Brandon Feils, Joseph Giblin, Kyle Portela, Sarah Portela, Wen-Ning Lee, Brad Fenner, Sarah Xavier, Jason Brown, Dane Alvord, Kerolann Haslam, Karie Owens, Mandy Rohner, Ken Reid, Ariel Matsuno, Shanna Mosley, Tara Reid, Gail Estock, Joe Estock, Robyn Swenson, Stacy Samano, Anneliese Park, Stephen Park, Katie Lam, Kyla Lam, Ivan Lam, Alvin Lam, Carrie Tam, Janice Connors, Megan Giblin, Chad Connors, Doug Carpenter, Rachel Koustik, Matthew Koustik, Chris Cox, Diana Chambers, and Stephanie Cox. These are the comment cards received after the packet was sent to Commissioners.

Resident Alex Bugai stated that several elements of the proposal do not make sense. The Ranch will create jobs, but it is unclear how many, and if there would be more jobs than the current zoning provides. The current zoning doesn't have a site development plan. The Town of Gilbert doesn't estimate job density by zoning type. Other resources on the internet do, though. Job densities per zoning type are approximately eight to 12 jobs for industrial and 14 to 20 jobs for commercial per net acre. Although there are commercial/retail sites nearby, they are very busy, and a study should be performed to understand their utilization. Occupancy rates are high, and undeveloped land nearby will drive the need for more commercial use. The land was rezoned in 2009 to support employment and the community. Even if the current zoning is not good for land developers, the proposed zoning is not good for members of the community. We don't need to settle for The Ranch.

Resident Ryan Handelsman asked why this project is in such a rush, as this decision will live in Gilbert history forever. The community agrees that the land should be developed. IndiCap wants to make a profit. There is no variety in the project, as industrial is their core business. The community has sent IndiCap multiple iterations of balanced proposals including 30% to 40% Light Industrial, 25% to 35% Retail, and 20% to 30% General Commercial, with the remaining land as a green belt. The response from IndiCap was "not something we are willing to develop". There is tremendous opposition to this project. We're not saying no, just slow it down.

Resident Kevin Marvin stated that the project does not match the area. He appreciates that feedback has been taken, but it is still not enough. The size of the site compares to State Farm Stadium and the Four-Story Hampton Inn is the size of some buildings. Put all those buildings up against Power Road.

Resident Karen Wolf thanked the Commissioners for their public service. The applicant's proposal is not consistent with the general plan or Morrison Character Area. This use was not what she was told by the developer and town when she bought her home. This proposal does not meet the needs of the community. The other industrial areas that the applicant cited are in Mesa, without homes surrounding them. The issues that would be brought in with these buildings (noise, traffic, loading docks) will not help the Town of Gilbert. We need to stick to the general plan and commit to what was promised to the community.

Resident Kelly Fortier stated that this project should not be grandfathered in to adhere to the old statute that it must be passed by Council by year-end. The neighborhood expected development on this site, but not a project like this. This project should not be rushed given the extreme opposition. Residents will move out if a project like this is developed in the area. There could be health considerations given the amount of pollution this project will generate, including the risk of different kinds of cancer. People who live in Gilbert make approximately \$100,000 per year and will not work at this site. COVID-19 means more people are working from home in any case.

Resident William “Mac” Kean stated that industrial properties involve a lot of noise, including forklifts and machines beeping day and night. There are no restrictions on what kind of businesses can be run under industrial, and there could be chemical and biological products. There is a drought and properties like this use a lot of water.

Resident Diana Chambers stated that the data speaks for itself. This is not the logical choice. The families in this neighborhood are humans and have feelings and needs. Each person in opposition can represent a household of five people. There are logistical, employment arguments for certain buildings, but the importance is wellbeing, emotional health, and culture. An 8’ wall does not cover a four-story building, and she does not foresee sitting on a bench on the other side of that wall. Keep Gilbert the beautiful city that it is. There are many other locations for these buildings.

Resident Susan Hunter stated that she is opposed, and she hopes the Commission will listen to the people.

Resident Daniel Law stated that it seems illogical that the neighborhood should have to fight like this. He appreciates the efforts of the developers to take feedback, but industrial does not belong in this neighborhood. Similar developments currently have empty parking lots. This amount of industrial cannot be maintained. Tesla is pre-emptively laying off 10% of their workforce given a potential financial downturn. Commissioners are trying to do what’s best for Gilbert, but Gilbert should be kept a town, and not stripped of its culture. He stated he hasn’t spoken to anybody who agrees with this proposal and requested the Commission oppose it.

Resident Jenny Everett stated that the community would love to have something built here and for Gilbert to grow. Some Light Industrial zoning could be valuable, but not at this level. She outlined the acreage breakdown for the site; under the current zoning there would be 4,265 jobs, and with the proposed rezoning, there would be 2,952 jobs. This would be lost tax income year after year for Gilbert. Warehousing could become autonomous and eliminate even more jobs. General Commercial provides more jobs per square foot. There should be a vote for growth not warehousing.

Resident Debbie Patrick stated that the property has been used for the last 13 years to grow feed and run a dairy farm; it has not gone unused as the applicant suggests. The dairy farm started to demobilize in June 2022 and sold in September 2022. The rezone is coincidentally occurring simultaneously with the sale of the farm. This project would destroy residents’ ability to peacefully enjoy their properties. The landowner and this applicant will only sell all 300+ acres in a single transaction, which is an odd practice in a community. To abandon the

master plan as the final phase of home sale is ongoing is wrong. This project impacts 4,000 homes in Morrison Ranch.

Resident Laura Campos stated that this type of architecture does not support the character of Morrison Ranch. IndiCap has used a cookie-cutter designed plan. A warehouse design does not create enduring architecture and is not what residents of Morrison Ranch think of when spending time outdoors. IndiCap's website depicts elevations similar to all other industrial projects and does not consider the vision of the 2020 plan. The project should be tabled and considered over a couple of years. Warehouses that sit unoccupied can fall into disrepair and create urban blight in an otherwise beautiful neighborhood. A project of this size should be considered very carefully.

Resident Sarah Strasa stated that residents would love to have a reasonable development in this area. Thousands of homeowners bought their homes in consideration of the general plan. There will be 25,281 daily trips for The Ranch. The proposed amendment would involve 8,232 heavy trucks, which are disproportionately responsible for fatal accidents to residents and other drivers. This poses significant safety concerns. The residents are concerned with the type of traffic. This project should be tabled, go back to the drawing board and be reconsidered.

Resident Barbara Lucas thanked Commissioners for their service. This meeting has been scheduled on the biggest event night of the year for Morrison Ranch residents, which impacts their ability to attend, and is odd. Residents have had a 20-year expectation of a diverse use of this property, with amenities, services, and employment. This use of warehouses, truck bays, buildings, and truck trips is the most intense use possible. There should be additional space for something other than industrial, whether it be retail or office. There must be better consensus on what is to be done. The general plan does change and evolve as the market evolves, but it is not supposed to change this frequently. This policy requires a vote from the citizens to ratify it.

Resident James Gunn stated that he is a family physician and homeowner in the community, and he is passionate about health and safety. Some industrial development is supported but a reasonable plan must be formulated. The CHIPS and Science Act has invested \$280 billion to bolster US semiconductor manufacturing. Caution must be exercised with anything that is cancer-causing. A lot of the health changes that have been made come from years of evidence.

Resident Jennifer Wada stated that the town is choosing to ignore the ratified general plan and rezone this area to hold one of the largest industrial complexes in the valley in a residential area. Giant concrete buildings with noise pollution and large trucks coming and going do not equal neighborhood-friendly integration. The changes to the plan presented this evening are not guaranteed; at less than 40 acres, they can be rezoned to anything desired in future without a Council vote. This developer worked with residents on the Lindsay 202 to come up with guidelines ensuring there are no hazardous materials, and the Morrison Ranch community has not had the same respect.

Resident Tim Wallace stated that this project is bad for traffic, noise pollution, and could result in an increase of crime.

Resident Brandon Ellsworth stated that there are many buildings such as this going up on Elliot Road and Williams Gateway. He would be interested to see the statistics that note less than 2% vacancy, as it is common for these buildings to have vacancy without businesses for a couple of years. He appreciates the 65' of landscaping, but it will take 15 years for the ash trees to grow tall enough to cover the building. His family was hoping for grocery stores, restaurants, sports bars, a mechanic, a dental office, etc. in this area. This project will not add any benefit to the residents of Gilbert.

Resident Heather Armstrong stated that something could be developed in the area that provides value to Gilbert and the community. The changes were presented too late for residents to evaluate them. There needs to be time to reflect. It is unclear how many trucks would be utilized in the new plan, and that information would be helpful. The Warner Road and Recker Road intersection has large, gray buildings, and she feels horrible for the people who live there. The neighborhood was blindsided by this change. She does not want Morrison Ranch to be next.

Resident Stephanie Evans stated that patience is a virtue, and the existing zoning could be utilized by the right developer. The current land designation for Light Industrial would make it difficult to support a warehouse or industrial complex. This area has a large amount of space that could be used for a museum, cultural facility, shops with businesses, a music center, etc. that could set Gilbert apart from other cities in Arizona. This proposal has been overwhelming and frustrating, but she is encouraged by the designations in the general plan. The general plan has future industrial land use at 4% across all of Gilbert, and this is 84% right next to the community.

Resident Bryan Moseley spoke on behalf of CJ Cottrell, Jackie Cottrell, Stephanie Cox, Chris Cox, Estrella Flores, Daniel Ruiz Garcia, Erika Grinder, Nathan Grinder, Matthew Corsic, Rachel Coustic, Elizabeth Ruiz, Timothy Cirrell, Kayla Cirrell, Bradley Smith, Morgan Smith, Chaz Wright, Becca Wright, and Estela Zuniga. The proposed development does not create a liveable community. The only people who support this project are being paid to support it. He submitted a 28-page rebuttal that addresses all claims by the developer. To make a major plan amendment, there must be improvement, or the project made consistent with the plan. This development did not acknowledge the general plan until there was pushback from residents. The economic impact of this new plan is less than the existing plan. Nothing could be worse than the proposed development, as these buildings are offensive and frustrating. Gilbert has had more growth in office space than any other city, and there are other uses that could be put in place. This project represents a race to the bottom with Mesa. Business Park is more than just offices. This process is rushed and there is so much opportunity in the area. This proposal cuts off 20% of the character area. There are 100 policies inside the plan that do not change.

Applicant Adam Baugh stated that the town needs homes and commercial centers, but the town must also plan for the future and the entirety of its boundaries. Development cannot be limited to the Northwest side of town. It is not doable to develop with the existing zoning. The most consistent inquiries for the property have been residential, which the town is not willing to support, and the property is in the flight path. There is already a park across the street and Rivulon has been 15 years in the making, eliminating the need for another business

park and office building. There are 87 acres of commercial zoned land in the heart of Morrison Ranch that is not utilized, so what would be the value in another 101 more acres along Power Road. Supply chain shortages have proven that America has to reconsider its manufacturing base. The plan is not reflective of 2022 and beyond. The proposal is better than what is allowed today in terms of heights, setbacks, and trips. We need to create opportunities that create jobs and sustainable tax revenue resources. The area was always intended to have intensive use and be an employment hub. The planning department recommends approval. The proposal has evolved and improved. It is supported by the general plan goals and policies.

Commissioner Andersen stated that the site plan is not finalized and would still require design review. He asked if the applicant has any users in place, or if the lot could sit vacant for several more years. Applicant Adam Baugh responded that there is a phasing plan. As part of Phase I, the buildings along Power Road and the South side would be built, and the trails, trees, plantings, and walls would be implemented. There would be a subsequent design review for every building. It could take 10 years, depending on market conditions. Commissioner Andersen asked what would happen with the half mile road once it gets to the West end of the property. Planner Veronica Gonzalez responded that this is a pedestrian trail with landscaping, not a street.

Alternate Gage stated that the package presented this evening shows improvements on the western boundary as not being part of Phase I, but rather, a later phase. She asked if a new phasing plan would be provided. Applicant Adam Baugh responded that they are part of Phase I and it is stipulated in the zoning conditions of the case that it will be included in Phase 1. Alternate Gage asked about the box size of the trees and Applicant Adam Baugh responded that this has not yet been defined.

Chair Simon asked if the prior statute to finish this by the end of the year is being held by choice, or if it can be changed to the one year from filing. Legal Counsel responded that the statute and bill did not include a retroactive provision; therefore, the old statute still applies in this case.

Commissioner Bianchi stated that the applicant is responding to a need in the market, and he understands the economic advantage, but the question is whether the town benefits. There is not a good transition of uses based on their intensities. He appreciates that the applicant is making adjustments, but the current proposal is still too industrial focussed. The current land use map may not be feasible, but this is not the best land use and does not justify major amendments to the general plan and rezoning.

Commissioner Davis stated that the existing zoning and general plan are very specific and not viable in today's proposal and the size of the buildings next to residential is problematic. She appreciates the Business Park addition, but it is not enough. The residents in the area will hear the noises from Building 5 and people will be looking down into this building from their homes. There is a lot of open space in the spine road coming through, and the retention area could potentially be moved to the west side. Some industrial could be appropriate, but the current design is not.

Commissioner Fay stated that the general plan changes monthly. The specific businesses referenced by residents that they would like in the area could have come in at any time in the last 10 years, but they would have had to develop the area themselves, which is not economically feasible. He lives closer to Light Industrial than most of these residents would be if this project were developed. Many of the objections heard tonight cross into hyperbole, such as cancer-causing agents. However, he does recognize the noise of trucks backing up will be unavoidable. The issue comes down to compatibility, even though the uses discussed were foreseeable. The houses up against the development are the weakness of this plan.

Vice-Chair Mundt agreed that compatibility is the crux of this proposal, and he empathizes with the residents. However, this process and the dates chosen are due to notices that must be sent out at certain intervals and Commissioners having to attend. There is no nefarious reason for this meeting being held the night of a Halloween party. Everyone who has bought a house and reaches the age of 50 has some unexpected change to their neighborhood. There is no ability to restrict buildings based on the PAD under the state statute. That this development would use more water than any other is a fallacy. The claim that Rivulon and Deloitte brought in lots of jobs is untrue, as there are consistently zero cars in their parking lots. All that being said, it is difficult to look at this proposal and seeing the character area. I agree that there could be some changes. The decisions that we have to make are based on state statutes and timelines we're given. I agree that large buildings next to your home could be appalling, but even if the Commission denies it, they could come in and put these same size buildings of general commercial next to the homes.

Chair Simon stated that he has stood on the property trying to envision this project, and he empathizes with the residents about their opposition to this proposal. However, sustainability is important from a town perspective and jobs provide sustainability, not residential. It is hard to say whether this project would bring enough jobs that are high paying. Therefore, what is right from a character perspective must be sought. With the current zoning, nothing could be built that is to the liking of residents; it would be parcelled out with high-density housing. Retail and office are not what they were before COVID-19. He struggles with the fit of the proposed development. He commended the developer in trying to act as quickly as possible to appease concerns of the residents on the west side. There could still be more work done and he is struggling with the proposal. He's trying to think of this from a very logical and rational perspective and what the Town needs.

**FAILED MOTION:** Commissioner Bianchi moved to recommend denial of Item 4, GP22-05 The Ranch. There was not a second, and thus the motion did not pass.

Commissioner Davis stated that she would like to see amendments to the site plan with improved buffers and proposed a continuance to the next meeting. Commissioner Fay noted that he has heard the same comments for two months, and he is unsure if a continuance would only delay the inevitable.

**FAILED MOTION:** Vice-Chair Mundt moved to continue Item 4, GP22-05 The Ranch to November 2, 2022, seconded by Commissioner Davis. **Motion failed 3-4. Commissioner Blaser abstained. Commissioner Fay, Commissioner Andersen, Alternate Gage, and Chair Simon against.**

Applicant Adam Baugh stated that typically when you make a motion to continue, you give direction to work on the development in the interim. Working on the western edge, buildings 8 and 11 are 500' from the property line, behind the Business Park area. He stated that the setback of 500' could be added for all industrial properties that face the western edge. This would push Building 5 further from the residential boundary, and more Business Park could be added at the perimeter edge. The Commission could make a motion with that stipulation or you can make a motion to continue. We are bringing in an industrial product with commercial shopping centers and the nature of what we are proposing won't change, but we can change the experience on the west edge.

**MOTION:** Commissioner Fay moved to recommend approval of Item 4, GP22-05 The Ranch, subject to staff recommendations and conditions, seconded by Alternate Gage. **Motion passed 4-3. Commissioner Blaser abstained. Commissioner Bianchi, Commissioner Davis, and Chair Simon against.**

**MOTION:** Commissioner Fay moved to recommend approval of Item 5, Z22-05 The Ranch, subject to staff recommendations and conditions, seconded by Alternate Gage. **Motion passed 4-3. Commissioner Blaser abstained. Commissioner Bianchi, Commissioner Davis, and Chair Simon against.**

6. **GP22-06 LINDSAY 202 INDUSTRIAL BUSINESS PARK: Request for Major General Plan Amendment to change the land use classification on approximately 94.07 acres located at the northeast corner of Lindsay Road and Germann Road from General Office (GO) to 90.17 acres of Industrial (I) Land Use Classification and 3.90 acres of General Commercial (GC) Land Use Classification. Keith Newman (480) 503-6812.**
7. **Z22-06 LINDSAY 202 INDUSTRIAL BUSINESS PARK: Request to rezone approximately 94.07 acres located at the northeast corner of Lindsay Road and Germann Road from Business Park (BP) Zoning District to 90.17 acres of Light Industrial (LI) Zoning District and 3.90 acres of General Commercial (GC) Zoning District. Keith Newman (480) 503-6812.**

#### STAFF RECOMMENDATION

- A. Recommend to the Town Council approval of GP22-06 Lindsay 202 Industrial Business Park, to change the land use classification on approximately 94.07 acres located at the northeast corner of Lindsay Road and Germann Road from General Office (GO) to 90.17 acres of Industrial (I) Land Use Classification and 3.90 acres of General Commercial (GC) 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 Z22-06 Lindsay 202 Industrial Business Park, to rezone approximately 94.07 acres located at the northeast corner of Lindsay Road and Germann Road from Business Park (BP) Zoning District to 90.17 acres of Light Industrial (LI) Zoning District and 3.90 acres of General Commercial (GC) Zoning District, subject to the following conditions:
  - 1) Developer shall construct, at the Developer's expense, dedicated right turn lane(s) and any associated improvements at any proposed access on Germann Road and



- Lindsay Road right-of-way into the site. The minimum geometry of the dedicated right turn lane(s) shall be an 80 feet storage, 85 feet taper, and 12 feet wide. Improvements shall be completed prior to issuance of a certificate of occupancy or final approval of any unit or building constructed on the Property or at the time requested by Gilbert, whichever is earlier.
- 2) Developer shall design and construct, at the Developer's expense, a traffic signal at Lindsay Road and the full access driveway (located approximately 800 feet north from Germann Road and 1,000 feet south of traffic interchange) intersection. Improvements shall be completed prior to issuance of a certificate of occupancy or final approval of any unit or building constructed on the Property or at the time requested by Gilbert, whichever is earlier.
  - 3) Developer shall design and construct, at the Developer's expense, additional vehicle storage for the southbound left turn and any associated improvements at the Lindsay Road and the full-access driveway (located approximately 800 feet north from Germann Road and 1,000 feet south of traffic interchange) intersection. The southbound left turn storage shall extend to the longest length available in the median. Improvements shall be completed prior to issuance of a certificate of occupancy or final approval of any unit or building constructed on the Property or at the time requested by Gilbert, whichever is earlier.
  - 4) Developer will be required to continue to evaluate, at the Developer's expense, the adequacy of the vehicle storage for the southbound left turn at the Lindsay Road and the full-access driveway (located approximately 800 feet north from Germann Road and 1,000 feet south of traffic interchange) intersection. The developer will be required to submit new peak hour counts and observed queuing before each unit or building is constructed. If the Town determines that the southbound left turn storage is inadequate, the Developer shall design and construct, at the Developer's expense, southbound/northbound dual lefts and any associated improvements at the Lindsay Road and the full-access driveway (located approximately 800 feet north from Germann Road and 1,000 feet south of traffic interchange) intersection. If additional right-of-way dedication on Lindsay Road is required as a result of this widening/reconstruction, Developer will dedicate all necessary right-of-way for the widening, at no cost to the Town, prior to issuance of the first building permit or at the time of recordation of the final plat.
  - 5) Developer shall enter into a Development Reimbursement and Lien Agreement agreeing that Developer will reimburse Gilbert for the costs of design and construction of the dual lefts at the Lindsay Road and the full-access driveway (located approximately 800 feet north from Germann Road and 1,000 feet south of traffic interchange) intersection required by this ordinance if Gilbert constructs the improvements as part of its capital improvements program.
  - 6) Developer shall design and construct, at the Developer's expense, dual ingress lanes at Lindsay Road and the full-access driveway (located approximately 800 feet north from Germann Road and 1,000 feet south of traffic interchange) intersection. Improvements shall be completed prior to issuance of a certificate of occupancy or final approval of any unit or building constructed on the Property or at the time requested by Gilbert, whichever is earlier.

- 7) Developer shall design and construct, at the Developer's expense, dual egress lanes at any full-access locations onto the Town's right-of-way from the site. Improvements shall be completed prior to issuance of a certificate of occupancy or final approval of any unit or building constructed on the Property or at the time requested by Gilbert, whichever is earlier.
- 8) Developer shall design and construct, at the Developer's expense, 150 feet drive aisle setbacks from right-of-way to the first drive aisle at Lindsay Road and the full-access driveway (located approximately 800 feet north from Germann Road and 1,000 feet south of traffic interchange) intersection.
- 9) Prior to issuance of the first building permit or at the time of recordation of the final plat, 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 adjacent to the property for Lindsay Road and Germann Road as completed as part of its capital improvement program, project number ST1450. Failure by Developer to execute a Development Reimbursement and Lien Agreement may result in reversion of the zoning to the prior zoning classification. This reimbursement shall exclude construction costs paid by Developer for ST1450 improvements pursuant to A.R.S. 9-243.
- 10) 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.
- 11) Developer shall create a Property Owners' 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. Maintenance responsibilities for common areas and open space areas shall be specified on the approved site plan or final plat.
- 12) Developer shall record easements to be owned by the POA 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.
- 13) 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 Keith Newman stated that this site is in the 202 Growth Area. There is a proposed general plan amendment to go from General Office to Industrial on 90 acres and General Commercial on 3.9 acres. The re-zone is to go from Business Park to Industrial and General Commercial. The 90 acres is for employment/industrial uses. The total office area is 54,000 square feet, and there is 9,800 square feet of retail commercial space. There are two retail pads. There are 1,800 parking spaces and 20% landscaping, which is high for a development that is predominantly industrial. There were two virtual neighborhood meetings, and residents expressed concern with large truck traffic, noise, building size and proximity to the neighborhood, and permitted uses such as Light Industrial. However, the applicant met with the residents and resolved many of their concerns.

Commissioner Bianchi requested confirmation that the site plan has been amended so that all truck bays face away from the residential and the high school. Planner Keith Newman confirmed that no truck bays will be facing the residential development to south or Campo Verde High School.

Commissioner Fay asked what will prevent truck traffic on Germann Road. Traffic Engineer Clint Emery stated that there will be no signal at Concord Street, so there will be no delay to the traffic and the intersection will be able to handle the proposed traffic volume.

Applicant Benjamin Tate stated that the retail and commercial will serve the surrounding neighborhoods. There is a roundabout that can accommodate semi-trucks in the center of the four buildings close to Germann Road, which directs truck traffic to and from the signal at Lindsay Road. There will also be signage to direct traffic in this way. There have been various neighborhood meetings held to ensure the project is compatible with the neighborhood. There will be a list of restricted uses for the site based on neighborhood feedback.

Chair Simon asked about pickle ball courts. Applicant Benjamin Tate responded that there are pickle ball courts in the northwest corridor that employees are able to enjoy. Vice-Chair Mundt asked if there was a sound study performed on the pickle ball courts. Applicant Benjamin Tate responded that this should not be an issue given their proximity to the 202.

**MOTION:** Vice-Chair Mundt moved to recommend approval of Item 6, GP22-06 Lindsay 202 subject to staff recommendations and conditions, seconded by Commissioner Fay. **Motion passed 7-0.**

**MOTION:** Vice-Chair Mundt moved to recommend approval of Item 7, Z22-06 Lindsay 202, subject to staff recommendations and conditions, seconded by Commissioner Blaser. **Motion passed 7-0.**

#### **ADJOURN SPECIAL MEETING**

Chair Simon adjourned the Special Meeting at 9:01 p.m.

#### **CALL TO ORDER OF THE STUDY SESSION**

Chair Jän Simon called the October 20, 2022, Study Session to order at 9:06 p.m.

#### **STUDY SESSION**

8. **DR22-110 ANDY'S FROZEN CUSTARD:** Site plan, landscaping, grading and drainage, elevations, floor plans, lighting, and colors and materials for approximately 0.75 acres, generally located at the southeastern corner of Elliot and McQueen Roads, and zoned Shopping Center (SC) with a Planned Area Development (PAD) overlay. Noah Schumerth (480) 503-6729.

Planner Noah Schumerth stated that feedback is being sought for the building elevations, site plan, and grading and drainage noted. This is the final vacant lot of the Oasis at the Islands shopping center in the Islands PAD. There is a 1,200 square foot building built in a similar style to Andy's Frozen Custard sites throughout the town. This business is heavily reliant on its drive thru, which is long, with a queuing lane. Drainage is via underground retention tanks and a retention basin shared with the gas station. There is minimal protection

against sheet flow on Elliot Road, as the provided channel is only one foot deep, which is of concern for staff. The design includes a large blade with vinyl cement siding and tan brick.

Vice-Chair Mundt asked if the layout of this Andy's Frozen Custard will be different from the one on Gilbert Road. Planner Noah Schumerth responded that the parking layout is different, with one-way traffic and different functioning of access points. The building and patio are similar.

Commissioner Bianchi asked about the drainage issue. Planner Noah Schumerth responded that the retention basin is suitable for holding the volume sought, but there could be additional storage tanks. There are issues in putting swales in the front landscape area. Commissioner Bianchi asked if there is any issue with pedestrian safety in orienting the parking. Planner Noah Schumerth responded that there are dual-lane queuing lanes, and all parking was moved to the western side so that there is only one handicapped space in the middle area. Traffic should not be moving fast enough to cause substantial concern.

Commissioner Fay stated that he does not take issue with the drainage. His biggest concern with proposals like this is for backup to wrap around the property and not onto the street, and he commends the work of the applicant to ensure this.

Commissioner Davis asked if the lighting is recessed, as the underside of this will be seen from the street. Planner Noah Schumerth responded that this feedback would be taken into account at the end of the upcoming design review.

Chair Simon stated that staff can work through the drainage. He asked if staff will be able to move forward without further Commission input. Planner Noah Schumerth responded that it will be brought forth at the December 2, 2022, hearing.

9. **Z22-13 MIXED-USE ZONING DISTRICTS:** Request to amend the Town of Gilbert Land Development Code, Chapter 1 Zoning Regulations, Section 2.0 Terms, Section 3.0 Base Zoning Districts and Use Regulations, Section 4.0 Overlay District Regulations, Section 5.0 Supplemental Regulations, and Chapter 2 Design Guidelines and Standards, related to the creation of three new base zoning districts Mixed-Use/Small (MU/S), Mixed-Use/Large (MU/L), and Mixed-Use/Regional (MU/R). The effect of the amendment will be to create site development standards, use regulations, and design standards appropriate to a mixed-use zoning district, and to update and add definitions, terms, and graphics for clarity and consistency. Samantha Novotny (480) 503-6602, Noah Schumerth (480) 503-6729.

Planner Samantha Novotny and Planner Noah Schumerth introduced the topic. Planner Samantha Novotny presented an agenda for the presentation. No motion is required, only feedback is requested for this Study Session item. There are several reasons for why mixed-use zoning could benefit the community including helping to properly administer the LDC and execute the General Plan; there have been an increase in innovate mixed-use proposals received by Planning; the mixed-use zoning is also a specific General Plan implementation action and is a step towards implementing other actions in the General Plan. A slide was shown depicting images of several examples of existing mixed-use developments around Gilbert. Planner Samantha Novotny described the methodology of the research based on peer communities around the country and the Phoenix valley that have similar suburban

pattern and demographics. Prior Gilbert projects were used as case studies, and staff's experience were used to formulate the creation of the proposed amendment to the LDC. The latest research and articles from professional associations were also used as reference material. The LDC amendment does not mean any property will automatically be rezoned. Any projects desiring to use mixed-use zoning will need to apply for a rezoning application, and a general plan amendment if needed. The zoning districts are paired with select General Plan land use categories that can expect or accommodate mixed-use developments with considerations to scale and density.

Planner Noah Schumerth stated that the Mixed-Use/Small District would be to create small-scale mixed-use development at a maximum height of 40', with a controlled density range, smaller sites, and a 20' arterial residential setback. There will also be a build-to-line on front and street sides, which was inspired by the regulation in the Heritage District. There will be no transparency requirement for ground-floor retail. There would be a 5% landscaping requirement. There would be an additional height allowance up to 55' if the findings of fact demonstrate compliance with other factors to regulate screening and mitigation to impacts on neighboring uses. To maintain the integrity of the mixed-use definition, there must be a minimum of one residential component and one other use on the site. This will allow the site to be more compatible with surrounding neighborhoods that are more residential in nature and scale. Staff is still working through the landscaping and open space requirement, and considering tiering the percentage depending on the scale. Private open space could be counted towards the total percentage. The Mixed-Use/Large District height increases to 60', the density range increases to support larger buildings, the site size has a minimum requirement, a minimum of two uses on the site, with more flexibility for orientation, and a 50% transparency requirement. There would be a higher landscaping and usable open space requirement at 20%, and the private open space could be counted. Mixed-use development allows a greater flexibility to put different uses in a development. At least one of the buildings should have at least two uses within a single structure. The intent is to create mixed-use zoning and not be a loophole for other types of development to get around development standards in other zoning districts. The Mixed-Use/Regional District has a maximum 80' height with up to 90' additionally depending on the findings of fact. The expected density would be 25 to 50 dwelling units per acre on a minimum site size of 10 acres. There are additional standards that apply to all three districts that relate to parking locations, build-to-line, and access next to arterial streets.

Alternate Gage asked if a developer would have to rezone to a PAD if they do not meet the requirements. Planner Noah Schumerth responded that the PAD is still available, but the goal is to reduce the reliance on PADs. Alternate Gage noted that developing mixed-use can be very tricky, even though there is need for it, and it should be ensured that this amendment does not deter developers. Alternate Gage asked about the landscape requirement and thought the proposed percentage was too restrictive in Mixed-use/Small. Planner Noah Schumerth responded that the landscape requirement will be larger for the larger sites and will be scaled appropriately for the district. Alternate Gage asked if "useable open space" will be defined. Planner Noah Schumerth responded that there are active and passive uses detailed in the existing code and examples will be provided in the design guidelines.

Commissioner Bianchi asked if there are specific areas of the town that will be targeted with these uses especially the Mixed-Use/Large and Regional. Planner Noah Schumerth responded that this varies dependent on the district. The Mixed-Use/Small is for neighborhoods. The Mixed-Use/Regional is meant for specific areas that are called out in the General Plan Growth Areas and Vertical Development Overlay District.

Commissioner Davis asked if rooftop patios were considered for the open space, as this could affect the additional height with canopies. It should be utilized as an open space option. Planner Noah Schumerth responded that there was a conversation about it internally, and staff would take that into consideration.

Commissioner Fay stated that he is in favor of multi-use and flexibility of the LDC and zoning process. Some developers use flexibility as a means to run right into the margins, and he suggested the ability to control loopholes be written into the code. Planner Noah Schumerth confirmed this proposal is intended to be a tool that provides flexibility and not be a means to get around the existing areas of the code.

Planner Samantha Novotny stated that the definition for mixed-use developments was refined since the last meeting on October 5<sup>th</sup>, to add clarity and lines up better with the General Plan and the administration goals of the Town. Planner Samantha Novotny discussed amendments to the Use Table regulations. A variety of uses were selected for each zoning district while still meeting the newly proposed definitions. Two new “L” limitations were added as part of the Use Table. One limits user size, and the other limits hours of operation. The presentation was concluded and opened to more questions.

Chair Simon asked if there are drinking establishments in Epicenter that would be open later than the hours of 7:00 a.m. to 10:00 p.m. and if it was based on the Town noise ordinance. He thought it was a good idea to limit late night hours. Planner Samantha Novotny responded that currently in the code, the hours limitation are only relevant to Neighborhood Commercial, so staff created one that would be usable in the new mixed-use zoning districts. Staff would look into whether limited hours are mentioned in the Municipal Code.

Alternate Gage recommended reexamining the Mixed-Use Development definition once more because in her experience, land use attorneys look for opportunities to scrutinize definitions and look for loopholes in zoning codes, so she wanted to pass on the advice.

## **ADJOURN STUDY SESSION**

Chair Simon adjourned the Study Session at 10:03 p.m.

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Jän Simon, Chairman

ATTEST:

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Tracey Asher

DRAFT