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#### **CALL TO ORDER**

[Time: 00:00:01]

Mayor Lane: Good evening, everyone. It's nice to see you all here to join us for this -- our regular meeting here that we will call to order, our December 1<sup>st</sup>, 2015, city council meeting. We will start with a roll call, please.

#### **ROLL CALL**

[Time: 00:00:18]

City Clerk City Clerk Carolyn Jagger: Mayor Jim Lane.

Mayor Lane: Present.

City Clerk Carolyn Jagger: Vice Mayor David Smith.

Vice Mayor Smith: Present.

City Clerk Carolyn Jagger: Councilmembers Suzanne Klapp.

Councilwoman Klapp: Here.

City Clerk Carolyn Jagger: Virginia Korte.

Councilmember Korte: Here.

City Clerk Carolyn Jagger: Kathy Littlefield.

Councilwoman Littlefield: Here.

City Clerk Carolyn Jagger: Linda Milhaven.

Councilwoman Milhaven: Here.

City Clerk Carolyn Jagger: Guy Phillips.

Councilman Phillips: Here.

City Clerk Carolyn Jagger: Acting City Manager Brian Biesemeyer.

Brian Biesemeyer: Here.

City Clerk Carolyn Jagger: City Attorney Bruce Washburn.

Bruce Washburn: Here.

City Clerk Carolyn Jagger: City Treasurer Jeff Nichols.

Jeff Nichols: Here.

City Clerk Carolyn Jagger: City Auditor Sharron Walker.

Sharron Walker: Here.

City Clerk Carolyn Jagger: And the Clerk is present.

Mayor Lane: Thank you. Just a couple of items of business. We do have cards if you would like to speak and/or have written comments on any of the items on the agenda. The white cards are for speaking and they are held up over the head of the city clerk right now and the yellow card which she has in her other hand for written comments. We received a number of them already but at the same time, any of the written comments we will read during the course of the proceedings. Cards to speak will be met with as well.

We do have Scottsdale police officer Jason Glenn and Dave Schurr right directly in front of me here if you have any need for assistance from them. And if there are any medical emergencies, please see the Scottsdale fire representative for assistance and here she is here in the building. Well, police officers can help you find them if you need to, but in any case, I think we have them here as well if you have any need for medical emergency, any medical emergency needs. The areas behind the council

dais are reserved for the council and staff. We have rest rooms over to your left for your convenience.

**PLEDGE OF ALLEGIANCE**

[Time: 00:01:52]

Mayor Lane: We will start with the Pledge of Allegiance and I would like to ask Councilman Phillips to lead us in the pledge, please. If you can stand, please rise.

Councilman Phillips: I pledge allegiance to the flag of the United States of America, and to the republic for which it stands: One nation under God, indivisible, with liberty and justice for all.

Mayor Lane: We have Sister Patricia Gehling from our Lady of Perpetual Heart to lead us in the invocation.

[ Alarm sounding ]

Why don't we hold on, sister, and see if we can get this cleared. It's the type of thing that we can't ignore. Okay. It looks like we are going to need to evacuate.

**NOTE:** The Council Meeting was in recess from 5:11 p.m. to 5:31 p.m. for evacuation due to emergency alarm.

**INVOCATION**

[Time: 00:07:01]

Mayor Lane: Please, if you could, take a seat. Let the record show that we did have an interruption and the time lost, please, Ms. Jagger and also that we all continue to be present. So we were at a point and we could have used this probably a little earlier but to have Sister Patricia Gehling from our Perpetual Lady of Heart present us with the invocation tonight.

Sister Gehling: Good evening. Bow your heads, please. Loving and gracious God, we are meeting today to conduct matters of business. Bless this meeting with your divine wisdom. We may be of diverse opinions but guide our hearts and our minds in the spirit of fairness, right thought and speech. Give us insight to lead with integrity, that our decisions may reflect what is right and good. Be with us in our deliberations and help us to be wise in the decisions that we make for the good of all of those who have placed their trust and confidence in our leadership. In part your supreme wisdom upon our activities so that our affairs may reach a successful conclusion. Grant us the humility to always seek your will in all that we do and say. Thank you for being our source of guidance today, and together we say, amen.

Mayor Lane: Amen. Thank you very much, sister. Well this would normally be -- the next item

would be the mayor's report. I have none. No presentations, and there are no public comment cards, only specific cards to the agenda items. Okay. Very good.

**MINUTES**

[Time: 00:08:59]

Mayor Lane: Then the first order -- the next order of business would be a request to approve the regular meeting minutes of November 10<sup>th</sup>, 2015. Do I have a motion?

Councilmember Korte: So moved.

Councilwoman Littlefield: Second.

Mayor Lane: Motion made and seconded. All those in favor please indicate by aye. Unanimously approved. Thank you.

**ITEM 1 – The Outpost Major General Plan Amendment (1-GP-2015)**

**ITEM 2 - The Outpost Rezoning (10-ZN-2015)**

[Time: 00:09:20]

Mayor Lane: We move on to the order of regular business and it's agenda items 1 and 2, and they are taken together. And what we would do normally in this case, because we have a great number of cards and requests to speak and also requests with written comments. I think we have some 40 plus, and some with some donated time together. What I'm going to do is allocate one minute at a time, please, for all speakers. If there's donated time, on the basis of the number of cards donated, I will add to that, but in order to try to get through the testimony in a reasonable amount of time so we can actually consider the issues, we'll be doing just exactly that. And so with that, I'm also going to have this -- at this point in time, before the presentation, by the staff or the client -- or the applicant, I should say, and I will start then with this. It's one minute per speaker, like I say, unless there's donated time. And you will be coming up to this podium here and we do have the clocks working. So keep your eyes on that clock. We'll start with Carol Augustine. She will be followed by Justin Gubler, if Justin could stand by, we could --

Carol Augustine: Good evening. You just said the one minute so I'm trying to think about how to minimize this. So I will do the best I can. My name is Carol Augustine. I live at 29250 North Hayden which is in the neighborhood of the proposed property rezone. I'm not sure how many people that are for this project live? This area and understand the history of our preservation efforts and I hope the city council will take into consideration where we are all live while listening to our comments. My goal is not to criticize the applicant or his project. That would be hypocritical, since I own two businesses which are commercial real estate development. This is not a simple request for up zone. Oh, boy. Basically I went through the city's website and we have the desert foothills

overlay. We have the environmentally sensitive lands ordinance, and we have naos, we have McDowell Sonoran Preserve. So basically by pulling things off the website, the goal of the city council and the previous city councils is to preserve open space and not have high commercial development in these areas. So basically, my question is, does this change in the general plan up zone, is it consistent from up above, that was drafted by city staff and public input? The answer is no. I respectfully request even as a real estate developer myself that you deny this application. Thank you.

[Time: 00:12:21]

Mayor Lane: Thank you, Ms. Augustine. Next is Justin Gubler.

Justin Gubler: Mayor and council, Justin Gubler. I want to, you know, say a couple of words. I know that everyone has varied opinions about this project, and I have sat through various public hearings. I have heard the pros, the cons, I have seen the site plans and I would like to ask you to look at this project open its individual merits. Imagine this project anywhere in the city of Scottsdale and you can see that it far exceeds every aspect, design, setbacks, land scape, et cetera, of any development in town. The -- I have heard a lot of people talk about setting precedence, and as if that's a bad thing. If you look at this project in the context of where it's going, and what is planned for the future, especially to the south this project does send a precedence but it sets the right precedence. It gives staff, council, the opportunity to enforce a higher level of design going forward. This is an arterial street. This is the intersection of two arterial streets. It's not set for residential. This is a commercial property. It should be commercial. Thank you very much.

[Time: 00:13:42]

Mayor Lane: Thank you, Mr. Gubler. Next is Janelle Abbott, followed by Jenny Hagel.

Jonelle Abbot: Mayor, council people, I am Jonelle Hagel Abbott, I live on East Dixileta, I'm a native of Arizona and I'm a horse person as well. I wanted to make two points and one was that one minute is way too short. This is way too important for us to be able to express our thoughts. Our family owns a significant amount of land near the site in question and you oppose amending the general plan in this manner. One, we live here because of the area's unique rural desert character and that's one of the Scottsdale's greatest resources and this amendment would degrade the area's character. We talked and prayed about integrity and we talked and we prayed about having to do the right thing. I'm a neighbor less than a mile from this project. I was never contacted by the person, and I, therefore, feel like it's sneaky and trying to get something through. That should not be. We are the constituents who would bear the negative impact of this. We ride horses. We hike. We ride bikes. This is why we moved there, not to have some place to walk to, to get a Gatorade. We know where that is. Thank you.

[Time: 00:15:23]

Mayor Lane: Thank you, Ms. Abbott. Next is Johnny Hagel. Johnny Hagel would like to donate her time to me, Justin Graham. I have a comment card in there.

Mayor Lane: All right go. Ahead and I will give you two minutes on that then, please.

Justin Graham: Mr. Mayor, members of the council --

Mayor Lane: What was your name?

Justin Graham: I'm Justin Graham. I'm here on behalf of the Hagel family trust. I live at 208 West Portland Street, Phoenix, Arizona. The proposed gas station and restaurant retail project is inconsistent with the city's general plan for this area and does not justify this major amendment. One of Scottsdale's most treasured assets is the lush Sonoran landscape. The city agreed upon a vision for development in this area that was embodied in the 2001 general plan. It was to have the rural beauty, and have rural, lower intensity uses. Your constituents in the area have relied on this vision in deciding to live in the area. Approval of this amendment for a speculative commercial development would be an unfair bargain for neighbors who relied on the agreed upon vision. Sets a troubling precedent in the area that could lead to degradation of this unique area of city.

This proposed amendment, and the project that it facilitates are such a departure from that general plan's vision that only overwhelming justification could support it. That justification is lacking. The justification cannot be a crisis over lack of commercial property in the area. The staff and the neighbors have noted that the commercial property in this area has struggled for the last several years. In fact, as staff noted, in the time since the applicant last applied -- applicant last applied with the application, the city has consistently voted to change the land from commercial to residential, noting an excess of commercial property in the north area of the city. The applicant has provided no independent market analysis that would support this project. And without a strong commercial justification, approval of this amendment could replace the area's unique desert aspect, with commercial blight. Amending the general plan to allow commercial uses at this site would be unprecedented. It would be the first commercial land since the establishment of the general plan to be placed next to a rural neighborhood designation. The relative proximity to stables and places of worship, do not make this property worthless as rural neighborhood land. To the contrary, these are exactly the types of uses that contribute to the unique character of this area that the neighbors have embraced. For these reasons we respectfully request that the council deny this application. Thank you.

[Time: 00:18:16]

Mayor Lane: Thank you, Mr. Graham. Please, I ask you not to clap. We don't boo and we don't clap here. I appreciate the sentiments but please do not.

Jeff Abbott: My name is Jeff Abbott. I'm a resident on 8355 East Dixileta. This was not zoned for this. This was never designed for this. This was not in the plan for this area. That's why we bought a significant portion of land up here, to have this kind of lifestyle. It is against the character of the area and of the community, and it's interesting this is the fourth time this has come up since 2009 and previously you voted it down. It may be a good program. It may be a good plan. It may be

good in other neighborhoods, but it's not right for here. When I sat down and started reading the over 400 pages that you all have read, I noticed several things. People that were for the project almost overwhelmingly lived outside of the area. Six were residents of the area that voted yes, with their emails. 43 of the area voted no. Nonresidents overwhelmingly 28 versus 4 that voted -- versus 4 that voted no. That says a lot to me. The community has spoken and the community respectfully requested that you not pass this amendment. Thank you.

[Time: 00:19:29]

Mayor Lane: Thank you, Mr. Abbott. Next is Sonnie Kirtley.

Sonnie Kirtley: Good evening, mayor and councilmembers. My name is Sonnie Kirtley. I'm the proud chairman of the C.O.G., the coalition of greater Scottsdale, rural, r-u-r-a-l, that's a promise. Foothills overlay, another promise. The purpose of the foothills overlay, "the intent of an overlay district will be to maintain the desert as the dominant element and to preserve the rural -- r-u-r-a-l -- identity of the study area." Desert foothills character area plan. Another promise. In fact, 200 plus volunteer citizens, residents, spent hundreds of hours studying, planning, writing, to project a unique character area. We have seven of these in the city. Are they going to be protected as well? Rural again. R-u-r-a-l. A promise this council keeps? We certainly hope so. Please oppose the case. Thank you.

[Time: 00:21:22]

Mayor Lane: Thank you, Sonnie. Linda Ambrose, followed by Taylor, I believe, it's Gold.

Linda Ambrose: Good evening, mayor and city councilmembers. My name is Linda Ambrose. I live at 28700 North Hayden Road and I'm in the rural neighborhood of this development. My question is this: What is the destiny of Scottsdale's internationally famous Sonoran desert. You will be answering that question with your vote tonight. Deciding the fate of this desert is no hyperbole or exaggeration because voting for yes for the outpost development will open the door to every major developer in the future regardless of reason or location. Furthermore, it will change the desert but also Scottsdale's tourism, its economy and its residential neighborhoods. One of the largest concerns for those of us living in the area is the dangerous intersection most affected by this proposal. Pima and Dynamite road. It's already insufficient to handle the traffic that we have witnessed and many serious and even fatal accidents have occurred there, adding to this traffic is an endangerment to us all. I won't go into too much about what we have already heard, the existing zoning that was ratified by Scottsdale citizens in 2001 as well as the general plan task force approving the same land use to be rural. Combined with the desert foothills character area plan and the desert foothills zoning overlay.

Mayor Lane: If you could wrap it up.

Linda Ambrose: I will. I'm just at this last here, thank you. But I'm saying these are all a compact that is between the city and its residents. And it should never be broken by one man's wishes to break that compact for his own gain. We wish to stay rural and we ask that you please appreciate

and urge that you vote no for this outpost.

[Time: 00:23:26]

Mayor Lane: Thank you, Ms. Ambrose. Taylor Gold, followed by Robin Arterburn. Taylor Gold?  
[ Off microphone comment ] No, sorry, about that, Paul. Robin Arterburn.

Robin Arterburn: Good evening, mayor, councilmembers. Thank you for allowing me to speak for a moment. I live and work in the area at 8601 East De La O road is my residence and 23623 North Scottsdale road is my business. My husband and I and my family have lived there for approximately 13 years. We started a small business in far north Scottsdale. We struggled to keep our retail hardware business viable each and every year. We managed to get through the worst of the last downturn, but just barely. The empty commercial buildings that surround dynamite and Pima and around the general north Scottsdale area are enough support for the obvious. We can't fill the current buildings. We don't need more empty buildings. I have more here, but I'm going to allow other people to speak. It's not only a matter of the desert preserve and the promise, but also the current people and families and lives that are trying to strive to make a living and to keep it viable. Thank you very much.

[Time: 00:25:16]

Mayor Lane: Thank you, Ms. Arterburn. David Lyons to be followed by John Arterburn.

David Lyons: Good evening, my name is Dave Lyons, I live at 8248 East High Point Drive. My wife and I have lived in the area for the past 13 years. I drive past the location pretty much at least twice every day, once to, once from work. And I wholeheartedly in support of this project. I -- there's a complete lack of services for the neighborhoods, for the traffic that comes up and down Pima. To me, it's -- it's the government's job not to stand in the way of development but to let the market decide what is appropriate and if you look at every other arterial intersection that has 25, 30,000 cars going by it every day, traffic lights, it's -- it is completely justified to have a commercial business at that corner. It's not contrary to the overlay districts. It's not contrary to that. There are commercial properties in rural locations all over the country. We need the property. I'm in full support of it.

[Time: 00:26:34]

Mayor Lane: Thank you, Mr. Lyons. John Arterburn and donated time of Lauren Arterburn.

John Arterburn: Yes.

Mayor Lane: A couple minutes in there, John.

John Arterburn: My name is John Arterburn. I live at 8601 east De La O in Pinnacle Peaks Estates. I own and operate Pinnacle Peaks Hardware and have for 13 years. We do have plenty of access to those things. We don't need more commercial in the area. Within a five-mile radius we have 43



restaurants, eight gas stations, three pet and livestock stores, two hardware stores and six grocery stores. This isn't downtown Scottsdale. This is the rural area where people from all over the world come to see the Sonoran desert. I have a number of those people who come in my store to take a look and to buy things when they are either living there as a second or third home or visiting. You will see up here my store at the center of that radius and you see how far out customers come from for my store. [ off microphone comment ] So you can see that they come from a large area. They come from Rio Verde as well. Next slide, please.

Mayor Lane: Sir, if you could please, you need to be at the microphone, only because we need to you have on tape and I will be able to pick you up.

John Arterburn: If you take a look. Sorry about that. If you take a look on here, on the left-hand side of that screen, you are going to count 16 or 17 hardware and big box stores. Those stores have three to four times more density and foot traffic than I do in my store. The area where my store resides has the lowest population density in the Phoenix metro area. The applicant came to ace initially when he brought the property wanting to put a hardware store in there. They came to me asking if I would like to do that. We ran a demographics study. It would not support it. So in that northern Scottsdale area, you see three hardware stores. And look at the great mileage spread between them, 5 miles and 9 miles, not like over on the left-hand side there where you see stores literally a couple of miles apart.

Mayor Lane: Please wrap it up.

John Arterburn: Thank you very much.

[Time: 00:29:18]

Mayor Lane: Thank you, John. Copper Phillips next, followed by Charles Blackmon and there are two cards, one donated from Sandy Mills. And so two minutes, copper.

Copper Phillips: Thank you. Copper Phillips, 7451 East Via Dona Road. I would like to talk a little bit about the area -- if you can just advance the slides to number 8. Keep on going. What I would like to talk about is that this is an area that is very well suited for residential use. First of all, large lot residential is the most appropriate use for this being an equestrian, we have lots and lot of equestrian properties in the area that would knowledgeably base their homes on the northern most border of the property. If we go to the next slide, we will see some pictures that I took standing on the corner in Scottsdale, Arizona. Basically on slide number 8, what we are seeing are view points of this area taken from the north, to the south, to the southeast, the southwest, northeast, northwest. And it's a beautiful piece of property and just as would you never build your home to face an alley, of course you wouldn't. You would take advantage of the most appropriate views and that's northern and the northwestern views. You can go with the north -- just the western view but that would be a very appropriate place to build a home. It's a 10-acre lot. And so the argument that this is not appropriate for residential is totally off base.

The general plan and the general plan draft both identified that this area is very, very appropriate for residential and continues at zoning to do. So we are not recalcitrant children. We are not ignorant. We are trying to seek the best use of our property, that the government will allow us to use. And we are residentially zoned and we are have every right to build on that property as the zoning permits what an individual doesn't have a right to do is transgress my right on property that I bought 20 years ago that the city of Scottsdale would protect my neighborhood and allow my rights as they stand, rather than allowing someone else for personal benefit and no community benefit to transgress those rights. Thank you.

[Time: 00:31:38]

Mayor Lane: Thank you, Ms. Phillips. Charles Blackmon, followed by James Davis.

Charles Blackmon: Mr. Mayor, councilmembers, my name is Charles Blackmon. I reside at 10639 East Mark Lane, Scottsdale, and live approximately two miles from the proposed development site. The desert foothills plan was a combination of over two years of neighborhood and public involvement and input. The current plan reflects traditions that in many instances began before the area was even annexed to the city in the early 180s. The entire intent of that plan is to protect the desert area as you saw in the photographs just a moment ago. Those plans, the desert foothills overlay plan was approved by the council and was approved by the voters. And as such, that plan should not be changed on an arbitrary or piecemeal basis. The outpost proposal as a result should not be approved because it's not consistent with the desert foothills overlay.

About two years ago, council created a task force to take a look at the master plan, the master general plan, as well as the desert foothills overlay to determine if any changes were required. Several amendments were proposed, many of which were designed to encourage further development of commercial spaces. The voters rejected those proposals when they were brought forward. My sense is if the council now believes the master plan and the desert foothills overlay are deficient in some way, you should share that information with the community. If you do believe they are deficient, then you should create another task force to take a look at those plans and come forward with recommendations that you can bring to all the voters to decide whether or not now is the time to make a change to those plans. Thank you very much. I hope you will consider my feedback.

[Time: 00:34:06]

Mayor Lane: Thank you Mr. Blackmon. I failed to note that you had some additional cards and so we gave you some additional time. James Davis, who does have some additional cards. 12 in number. Before the clock gets started, Francene Hitchcock, Robert Gorman, John Simonson, Linda Simonson, Anderson vander Burkle, Doug minor, Allen Everest, Elaine Swanson, Beverly Everest, Swanson, H. Swanson, Paula Gorman. So with that, James, eight minutes do for you?

James Davis: Thank you. I appreciate the consideration, mayor. Good evening, my name is Jim Davis. I live at 27483 North 103<sup>rd</sup> way, two miles from the proposed site. We live in a 264 property community. I have been on the board of the H.O.A. for eight years, president for two years. As

such, I have been tasked with following developments in north Scottsdale that affect our residents. I have developed an email address distribution list of -- that numbers 300 and a number of those recipients forward my email to others. So I'm covering at least 400, maybe 500 residents, voting residents of north Scottsdale. Those residents overwhelmingly, 98% oppose the Outpost. They oppose it for the reasons that have been given so far, and the ones that haven't yet been stated. These residents are depending on the council to support the general plan and zoning that is in place now.

The question is, since the staff has already said that this is a precedent setting site, that the council should have an overwhelming reason for making an exception and making a change to the general plan. So what are those reasons? What could they be? One would be a demonstrated need. That's already been adequately covered so far. There is no need. And it will not change in the foreseeable future. A second reason would be good public support. We have already heard that the public support here is from areas outside of north Scottsdale. Again, the 400 email recipients that I have are all in north Scottsdale and they are opposed to it. If you were to analyze the communications to the council and the mayor, I'm sure you will find that. Support is coming from non-north Scottsdale residents, possibly even non-Scottsdale residents and nonvoters. When the opposition is coming from those of us who live in north Scottsdale.

In the very recent past ten days, for some reason, the applicant decided to try to get more support for this project. He commissioned a slick P.R. survey. We don't know who received that survey. We do know that only one, to the best of my knowledge, of my 400 on the distribution list received it. So only one of 400 north Scottsdale residents received that survey. It was slickly prepared. Some photographs, renderings of the project. It had five questions. One of the questions was -- asked the interest in a western dining experience, a la the reference to the pinnacle peak patio replacement. There were four responses, various favored the question. So the structure of the questions and the structure of the survey was definitely couched and probably the distribution list to generate support. So why haven't we heard about that from the applicant or anyone yet? Well, the reason is two days after the survey went on the Internet, it was pulled down. If you went to the website, it said "thank you for your interest. We've had several hundred responses. The survey is closed." Why would they pull it down after two days. Obviously they were getting a lot of negatives.

The planning staff has already recommended disapproval and the only other reason for possibly considering this is if it was a unique project that really benefited the area or the community and despite the applicant's assurances and the staff -- the assurances of the staff and the assurances of the planning commission, we have no assurance that that project would ever be built if it was approved. The applicant could decide to sell the property. He could start building and run into trouble. We met up with more partially constructed buildings as we have seen on Miller, south of Pinnacle Peak for 10 years or we could actually finish, it find out it wasn't working and we would have empty buildings standing there like the restaurant mosaic 4 miles east of this site which has now been empty 4 or 5 years. So this is more a desert mirage than a diamond in the desert or a diamond in the rough. And to approve it, is only asking for difficulty. We have only seen evidence -- the staff focused on this, of oversupply of commercial property. This council has at least on five previous occasions proved changing the zoning and changing designation of property from commercial to residential, or zoning,

low density to high density, all on the basis that there's too much commercial property in north Scottsdale, and they need more rooftops. The council bought that. The staff bought that and the staff has seldom brought a project forward or let a project come forward that they haven't endorsed. This is a rare exception when your planning staff says no, it does not make sense.

So the only other reason to support this project would be if the applicant had a stellar record and was really going to do something superior. And you already know that the applicant has taken the planning staff to task. He said that they were biased and unprofessional. He stated that five weeks ago in this very room. He also at the planning commission's offsite meeting trashed the other service stations in the area, that he would be competing with. I said he already invested too much money into this property, and the only way is to have the city bail him out and turn it into a commercial designation. And then during the meeting five weeks ago, he stated shortly after the mayor became mayor of Scottsdale, he met with the mayor. He has done everything the mayor asked him to do and he still can't get the project approved. I say at this point that this applicant has burned his bridges with the staff, and sounds to me like with the community itself, and the community is not supporting it. I urge you to deny this application. Thank you.

[Time: 00:43:11]

Mayor Lane: Thank you, Mr. Davis. Next is Susan Kauffman followed by Preston Clarke.

Susan Kauffman: Good evening, mayor and council, my name is Susan Kauffman I live in Troon north. Troon north is approximately a half a mile from the site that we are discussing tonight. Last year I was the vice president of Troon north homeowner association board, and we did a survey about what people need in Troon north. This survey covered 1700 families that live in Troon north. We got 70% responses or 1200 responses from our survey. The questions that we asked included what the residents liked or did not like about Troon north, what amenities would they like or they would like to have in Troon north, what activities did the residents like. 54% of the respondents to that survey said that they liked hiking and walking. That was the number one like in Troon north. Nothing else even came close to that. The survey was prompted by a developer coming to Troon north saying that he was considering building some amenities and shopping in the area, and he was curious if Troon north residents would be interested or not. We did put questions about his shopping proposal and his amenity proposal in the survey, and there was minimal to no interest in any shopping, any amenities at all. The Troon north people like the outdoors and like things the way they are. It's clear to me that north Scottsdale residents want the unique desert lifestyle that we were promised in the general plan, and was approved by the council and ratified by the residents. By the way, for the council, the people that I -- we sent the survey to represent 2,000 votes for you all. So you might want to heed what they have to say. Listening to R.L. Miller, when he spoke the last time, and then re-listening to the video, I heard -- I heard him say very much about Pinnacle Peak patio and that he was going to, quote, try to recreate it. The former owners of the restaurant have said that the restaurant's demise was due to the fact that tourists no longer come north for the western experience. When they reach the casinos at the 101, the tourist experience is no longer viable in north Scottsdale. They get off the expressway. They stay at the casino and never come up to north Scottsdale. That's how Pinnacle Peak patio. The closure of different places should --

Mayor Lane: Susan, if you could wrap it up, please.

Susan Kauffman: Yes, I will. I would like to say to you, Mr. Mayor, that R.L. Miller did talk about you and he -- he said that he brought you his proposal and that you told him to keep the proposal small and rural and I am shocked that somebody like Mr. Miller would be approaching you and perhaps others to curry favor for his proposal.

[Time: 00:47:03]

Mayor Lane: I don't know how you might see that, Susan, but it's not a matter of currying favor. Oftentimes people come and ask what you think about something and bring it forward. So whatever the accusation was intended there, it's unfounded. Thank you, though. Preston Clarke.

Preston Clarke: I'm the managing partner of Arizona venture consulting and I have a vested interest in seeing the Arizona State economy grow. Outside of a 100 year history with my family, including a few terms of the Arizona State senate my great grandfather who also wanted to see Arizona grow. I regularly have visitors come to our house, knowing of greasewood flats and pinnacle peak patio, and requesting that we take them there. Right now, at a time when the economy is suffering, I don't see why we should be stifling job growth and another place for our families to meet in that community. I hope that you will support this project. Thank you.

[Time: 00:47:57]

Mayor Lane: Thank you, Mr. Clarke. Travis Reid. Followed by Jim Haxsby.

Travis Reid: Travis Reid. The address on the card is 15957 North 81<sup>st</sup> Street. As a business owner and resident of north Scottsdale, I support the project. I find it interesting that a small group of people in -- in terms of a NIMBYism, not in my backyard have raised such a tremendous voice and apparently are speaking for so many. That being said, it's a great project. It's designed well. It's definitely something that would be used and useful in that area, and would definitely also be part of the culture and western nature that that area used to have, and with the loss of greasewood flats, buffalo chip this last week and the patio, obviously, a lot of that culture has gone away in lieu of big box, large developments and lacks a lot of the well thought, well designed and well executed projects that the area needs. Thank you.

[Time: 00:49:35]

Mayor Lane: Thank you, Mr. Reid. Next, Jim Haxby. Followed by Valerie Fishgold.

Jim Haxby: Jim Haxsby, 7336 East Sunnyside Drive. I heard you vote no when the applicant bought the property. He knew what the zoning was on it, just like his neighbors around him when they bought. Now he's asking the city to approve the city of Scottsdale giving away its standards and to amend the resident approved 2001 general plan. The applicant's reps will stand up here and tell you

what a good project this is and how needed it is and how much it's needed. They are all paid to do that. The rest of these folks that are down here have all come down here trying to protect their neighborhood. So if you approve this zoning, that zoning will stay with the land. Who knows if this project will be built, but that zoning stay with it. You know, there's very little benefit for the neighbors. Their property will not go up. There's nothing in it for the city. The city staff has said no. So the only thing that I can see, the downside of this, is you are going to be faced with a lot of irate residents that can't trust the zoning of the city. Thank you.

[Time: 00:51:17]

Mayor Lane: Thank you Mr. Haxsby. Next is Valerie Fishgold, followed by Sandra Witter.

Valerie Fishgold: Good evening, councilman, council ladies. Mayor and Vice Mayor and all of the residents who have come here to speak. Excuse me. I'm going to speak from a personal perspective and I promise I will keep it very short. All right? I review the letters to planning last night from those who were opposed and in favor of the commercial development. What I found was there wasn't anybody who actually lived in the quadrant that I'm going to describe, the quadrant between Pima and Hayden and dynamite and Dixileta who actually supported the project. That is the 5-acre minimum overlay. In fact, I found out about this project just yesterday evening, because nobody contacted us, who live right there, because we lived further than 750 feet away. Also, since we have no associations and no homeowners associations, we didn't have the privy of finding out from those individuals. I guess we are just a bunch of old horse owners and quiet people that don't get out much and enjoy things the way they are.

Mayor Lane: Ms. Fishgold.

Valerie Fishgold: I will. I promise. I promise.

Mayor Lane: We are out of time, though.

Valerie Fishgold: I live in the quadrant where this project is proposed and we will be most affected. We are one of the few places left in Scottsdale that was deemed rural since the 1960s, that still exists. Many of us have horses which we fought for, to keep the trail system going and alive. Since I live on via Donna trail, I can tell you, it's well used by equestrians and walkers.

Mayor Lane: Ms. Fishgold, we are out of time. Please wrap up.

Valerie Fishgold: I'm wrapping up. It's going to be very dangerous for us as horsemen going by -- going by that parking lot that they have, and I challenge the city council for those of you who have not been up there, come on over. Get on a horse and I will take you by. If you are not so inclined or not as adventurous, come by in your walking shoes and enjoy the neighborhood. And the last thing I can say is I'm sure the plans for your project are very nice but our corner there -- please, mayor. The last few words. That corner has no power lines as some people are saying. Those are on other corners. They are not even there.

Mayor Lane: Ms. Fishgold. This is unfair for others who have abided by it.

Valerie Fishgold: Maybe they can go to an ugly corner somewhere as opposed to there.

[Time: 00:54:29]

Mayor Lane: Thank you very much, Ms. Fishgold. Sandra Witter, followed by -- Sandra Witter.

Sandra Witter: I'm one of those old horse equestrians. 8510 East Dynamite. I own bar a ranch which is 20 acres, and I have been listening to everything here tonight. I got a card in the mail a few weeks back for this tonight. I decided this afternoon about 2:00 to call everybody that owned horse farms up and down 84<sup>th</sup> street which is a very short street, however, we back up to this project. I called Phil Mitcham, I called Pam Stubbs, I called the minister of the church with my house backs up to that, and I called some other people, a man that runs his business out of my horse farm. None of them had gotten any notification whatsoever about this. They didn't know anything about it. It was too late for them to come and cancel any plans. So I decided to come and speak to them. Every one of them that I spoke to thought it was a really great idea and so I'm for it and so are all of those people who own horse farms adjoining this project. And it would have been nice to have something in the area, north, south, east or west we have to drive quite a long ways if you are out there.

Mayor Lane: If you could wrap it up.

Sandra Witter: Anyhow, and look around. There are no facilities that are very close there. Thank you.

[Time: 00:56:29]

Mayor Lane: Thank you, Ms. Witter. Next is -- I believe it's Chris Kouidenier. Thank you.

Chris Kouidenier: I'm Chris Kouidenier, I live on North Club Gate and I grew up in the Pinnacle Peak area. My dad developed all of Pinnacle Peak country club and Glenmore. So I have been in the area quite a bit of time, most of my life. I support the project. I have heard a couple of things. You know, we are not going to put a hardware store there. So that's not a concern there. You know, we have had a lot of western-style steakhouses go, the buffalo chip just last weekend, Rialto pass, and the reason they went out was because of property value, not lack of patrons and these are a lot of reasons why people come to the area. So by recreating something in that effect would -- would definitely bring people to the city of Scottsdale. I just wanted to voice my support for the project. That's all I have.

[Time: 00:57:52]

Mayor Lane: Thank you. Next is Joe Green. If you recognize that name, you can certainly correct

it at the podium, if you will, please.

Joe Green: Good evening, Joe Green, East Solano Drive. I lived in Arizona since 1982, when the population was about 2.9 million. Currently, the population is about 6.7 million. I am for progress. I am for this project. I have known R.L. Miller for 17 years. He's been a loyal and great businessman, and he's listened to your complaints and your objections. He's made amendments. Give him a chance. This project should be on. Thank you.

[Time: 00:58:48]

Mayor Lane: Thank you, Mr. Green. Jan House, followed by David Bart.

Jan House: Good evening, Mayor Lane, councilmembers. I'm Jan House of 28039 North 95<sup>th</sup> Street which is exactly one mile due east of this proposed project. I am speaking for my friends which I have got some of my database from Section 31, where I live, merit crossing, and lone mountain vista and others. I have friends who are just appalled by the thought of this. The reason we live in this area is to have the quiet skies, the rural lifestyle, our quiet nights and our unique desert. I lived here for 20 years and in 20 years, of course, I have seen changes. The changes I cannot accept are when we vote for people to be our elected officials and they change the zoning laws where we thought we were projected to live our lifestyle of freedom and horses and quietness. Five years ago, we stood before you to defeat this proposed plan. And I thought we won. I don't know why we are back. Some people who will speak tonight and who have spoken, it's obvious they don't live around here. Their addresses are mumbled and they say they have been a resident of Arizona or whatever. They dream of romanticizing at Pinnacle Peak patio, on this place or reminiscent of greasewood flats.

Mayor Lane: If you could wrap it up.

Jan House: Quick stop to and from church, none of these reasons warrant changing the zoning laws.

Mayor Lane: Thank you.

Jan House: I think you heard we don't want it. We don't need it and we won't support it.

[Time: 01:00:59]

Mayor Lane: Thank you very much, Ms. House. David Bart. Followed by Cindy Lee.

David Bart: My name is David Bart. I live on East Horseshoe Road. I'm a proponent of this development. We started out today's session with the Pledge of Allegiance if everybody recalls and we learned that that great Pledge of Allegiance back in grade school, when we also learned that it is a complete right. It's not a privilege to earn a living and to pursue your dreams. That's what we all learned back when we learned the Pledge of Allegiance. How hard you work and how committed you are to that dream, and your desire to earn a living will determine how successful you are. We all learned that. Mr. Miller has owned this land for 12 years, paid taxes, fought numerous hearings and



paid a lot of money to lawyers to do all that. He's been so committed to this outcome in his favor, and it would be unjust and unfair to deny him that opportunity to go after his dreams and to earn a livelihood. Thank you.

[Time: 01:02:13]

Mayor Lane: Thank you, Mr. Bart. Cindy Lee, followed by James Heitel.

Cindy Lee: Good evening mayor and councilmembers. I reside at 8508 East Hackamore drive in Scottsdale. In any civilized society, fairness is an aspect of ethical behavior. And fairness is specified in the city of Scottsdale's ethics code. It's also mentioned in the general plan. Well, it is decidedly unfair to the many, many local residents and homeowners to impose a commercial corner that they clearly do not want into their large lot, rural neighborhood that they bought into and it's designated in the general plan 2001. That voters ratified in 2002. In closing, I reiterate the words of a well-respected and thoughtful man who said not long ago in this very room, what is it about the word "rural" that you do not understand?

[Time: 01/03/59]

Mayor Lane: Thank you, Ms. Lee. James Heitel followed by Chris Schaffner.

James Heitel: Good evening, James Heitel immediate neighbor in the area. Current chairman of the McDowell Sonoran Preserve Commission. Sonnie mentioned a promise, nearly a 20-year promise, and I would remind all of us that spot zoning is not the answer to proper neighborhood planning or zoning efforts. Let me talk briefly, because that's all I have about the preserve adjacent on three corners at the Pima and Dynamite. Part of the recommended study boundary from the McDowell Sonoran Preserve, a major effort we have all undertaken. One of the residential corners, as you know is proposed to be one of the major trail heads, a cornerstone for that preserve effort. McDowell Sonoran Preserve Commission, for years has been on record as opposing increased densities in these urban interface areas, adjacent to the preserve. The remaining corners of Pima and Dynamite would undoubtedly with the passage of this spot zoning case have a tremendous student to -- opportunity to convert to commercial activities within our recommended study boundary and who could blame or object to the state land department who has cooperated with us for nearly 13 years in keeping the overlay protected, to see that area change.

Mayor Lane: Mr. Heitel, with all due respect, can you please wrap it up.

James Heitel: I will wrap it up. So I would suggest that if that corner starts going commercial, you might take all of the land and the recommended study boundary to the southwest of that, those two sections of land and remove it, because it will be cut off from the Preserve effort. Thank you very much.

[Time: 01:06:08]

Mayor Lane: Thank you Mr. Heitel. Chris Schaffner with some donated time from Maria Brocklynn, Patty Badnoch. So two additional cards. So Chris, you have two minutes.

Chris Schaffner: Thank you, mayor. Members of the council, Chris Schaffner, 7646 East Sunnyside Drive, speaking you to this evening -- Scottsdale. Speaking you to this evening on behalf of coalition of greater Scottsdale. One brief comment I want to make, I know it's tough time-wise but when we have the comments before the applicant's presentation, I think it puts commenters at a disadvantage as we are not able to comment on the presentation that's given. As it sits right now, the residents of Scottsdale have determined how this parcel of land should be used. They have done it repeatedly through their votes. And they have determined that this piece of land is for rural residential development. There is no justification for the government to step in and override the will of the citizens of Scottsdale. It's noteworthy, the planning commission did not unanimously approve this, for those who may not know, they very commonly do. It's rare that they don't. Staff recommends denial. That's rarer still!

This would be precedent setting, commercial development is just not put next to rural development in Scottsdale. We just have a history of not doing that. That's one of the things that makes Scottsdale great. There is no more need for commercial development in this area. Many of the commercial businesses are already struggling immensely. We have, in fact, approved some density increases in northern Scottsdale over the last few years, with just that justification, as being part of the basis of the decision, that the businesses needed more people to support their businesses. One of the things that this really comes down to. Approving this would be an act of government stepping in to override the rights and the interests of the surrounding property owners and businesses. The reason we are here tonight is to consider overriding the voter approved will of the citizens of Scottsdale. There's no compelling need in the interest of the community to do so and rather on the contrary is actually to the detriment of both the residents and the business owners that surround the area. I see my time is up. Thank you very much.

[Time: 01:08:38]

Mayor Lane: Thank you, Mr. Schaffner. Next is Nicholas Andrews. Followed by Rebecca Bowman.

Nicholas Andrews: Thank you, Nicholas Andrews, 7433 East Whistling Wind Way, Scottsdale, 85255. I had a chance to attend both the original hearing at the middle school, the planning commission meeting here where the commissioners all came together and approved this. Historically, just being at those other events, it was a huge amount of support for this project. I'm here to support the project. I like to mention Commissioner Kush during both of those previous meetings took the time to really iterate -- I don't know if I'm saying that correctly. He's saying, listen, this is not a residential site. I have been to the property. I walked the property. I met the owners. I looked at the plan. It's my professional opinion -- by the way, I'm a commercial real estate practitioner. I have actually walked the property. It is my professional opinion that this project should be approved for commercial zoning and I think it would be an attribute to the community. Thank you.

[Time: 01:10:02]

Mayor Lane: Thank you, Mr. Andrews. Rebecca Bowman, followed by John Salinger.

Rebecca Bowman: Mr. Mayor, councilmembers, good evening, I'm Rebecca Bowman, Desert Highlands, 10040 East Happy Valley Road. I'm a supporter. No one is paying me to be here as may have been alluded to earlier. My family and I have been homeowners in Scottsdale since the 1970s and clearly I'm passionate about the project if I'm even willing to hint at my age in public. I feel this is actually the perfect project to preserve the character of the community while bringing needed services. I can't imagine a development for which the land is currently zoned, leaving so much natural land or having architecture which is specifically designed to preserve and complement the existing landscape. I wanted to support the businesses north along Alma School, but I just don't feel comfortable on the winding two-lane road at night and the only time I ever used it was to go to the places that have recently closed. Pima is a well-traveled straight and wide road and the corner is already surrounded by churches and horse properties. So I feel the -- it's the perfect place for Outpost. I think it would be wonderful to preserve our western traditions and bring back Pinnacle Peak patio. It's places like this that make Scottsdale unique compared to the other places that also have great resorts, golf courses and weather. Thank you.

[Time: 01:11:40]

Mayor Lane: Thank you very much, Ms. Bowman. John Salinger, followed by Jerry Dudley.

John Salinger: Good evening and thank you. My name is John Salinger. I live at 26156 North 88<sup>th</sup> way, which is about a mile and a half from the site. I urge you to vote no on this, for all the reasons that have been mentioned. And -- but especially the precedent. I think the word spot zoning are two words, spot zoning, it really does characterize the situation. I think it would be a terrible mistake. I read through all the correspondence that was sent to you. And I remarks that the neighbors -- not everybody, but most of them were against it, and gave detailed responses, and the two-sentence supporting letters gave no reasoning, no logic, no nothing and sometimes not even any addresses. I mean, there was an email that came in from Glendale. Why are they sending you emails from Glendale on this? I hope you give that the weight it deserves. Thank you.

Mayor Lane: Thank you, Mr. Dudley. Jerome Landau. I'm sorry, that was Mr. Dudley.

Jerry Dudley: Good evening, Jerry Dudley, 28900 North Hayden. I live a little over a while from ground zero and I vote no for the Outpost. I'm a little confused on the terms of engagement here. We keep putting torpedoes in this thing and it won't sink. The enemy is allowed to withdraw, and refortify and attack again. What are they attacking? They are attacking the general overlay, the general plan, our overlay. I mean these are the things that we are all trying to protect. Things that we are dedicated to protecting and I hope you are dedicated to protect. This is not the first time I have been here. I'm probably wearing the same shoes. This is not first time we have been here. All the people before and after me have voted no, no, no, no. Their echoes and their voices are still echoing in this hall. I live about a mile away. That's five properties away from this property that we are talking about. It's four horse properties and a church. That's what we are trying to protect.

please, please vote no and shoot this thing, once and for all. This is a lame dog. Just dragging across over and over. It's wasting so much of our time. Please put this to bed once and for all.

[Time: 01:14:25]

Mayor Lane: Thank you, Mr. Dudley. Jerome Landau, followed by Gary Puschak.

Jerome Landau: Good evening, I'm Jerome Landau. I live on North Hayden Road in Scottsdale, approximately a mile from this property. I have walked on this property numerous times. I brought people to this property because I'm an attorney and a commercial real estate agent and I have had people from within this state and out of the country who fell in love with the property and if circumstances were different with the economy, probably would have put in an offer to build residents. The wires they talk about are not over this property, and are actually far from this property, number one. I would ask that anybody who comes up that you be clear on their address, because people are mumbling it. I think that the concerns of the people in the community are what you should consider. Each of you is a representative of the citizens and residents of this city. You have a compact with us as our representatives to follow that which over a period of two years and more was worked out by so many of us, attending so many meetings. So talking about time, every time this has been brought up before the city, for approval, we, numerous people, have had to come out, go to one venue for a meeting, another venue for a meeting. It is time to put it out of its misery. It doesn't belong. This is not a place for a commercial for profit venture.

Mayor Lane: Thank you.

Jerome Landau: If I bought a Volkswagen and turned around and said I wanted a Bentley, you wouldn't turn around and exceed to that. It's the same thing.

Mayor Lane: Mr. Landau.

Jerome Landau: He knew what the zoning was.

Mayor Lane: Thank you, Mr. Landau. Next is Gary Puschak who has some donated time. I can't read who the donated time is from.

[Time: 01:16:35]

Gary Puschak: Your Honor, my name is Gary Pushack, I live on Winter Son drive in Scottsdale. And actually, I live right here. So as you go up Pima, you turn right and you can come over and have a cocktail or a cold one tonight when we are done. We are all neighbors here. I'm here to -- I'm in favor of the Outpost and I mapped out a little mileage things. I take 101 and go up Hayden and over Pinnacle Peak and shoot up Pima all the way. That intersection at Dynamite is dangerous? You know what it is? Everybody starts speeding along Pinnacle Peak north because it goes down to two lanes from four to two. If the intersection is a problem, fix it! Because growth is still coming. I see cement trucks, construction, all along this area here, all along up in the desert mountain area and my

neighborhood. There's a lot of construction going on. So you are not stopping growth whether you like it or not. The Outpost is not going to stop any horseback riding. It's not going to stop hiking. If you take a look here, right here. That's where the parking lot is going to be for the trailhead. I love to take friends from out of town when they are done with their 300 parking lot trailhead and take them next door to the restaurant to get a good bite of some good food because when R.L. puts a project together, he does it right.

Those plans that he has drawn are awesome. I have to compliment this council too. Look at D.C. Ranch. Beautiful! The setbacks, you think this council would allow some goofy project half assed done on that site, no way. It's a quality project and we should all look forward to it. Thank God the foothills plan was not put in place before Troon was built, because nobody would be living in this neighborhood, right? Yeah. So think about it.

[Time: 01:19:09]

Mayor Lane: Thank you, Mr. Puschak. Please, I asked you not to applaud or to boo. A laugh or two every once in a while is all right. Brian Weymouth, I believe it is. Followed by Bryan Moreno.

Brian Weymouth: My name is Brian Weymouth, I'm a Paradise Valley resident. I don't live in Scottsdale but I was hoping the council would consider some outside opinions. As former vice president of Del Webb Corporation, we developed a few deserts. We developed a few homes in the desert and we developed a lot of commercial in the desert and R.L. Miller has brought this project to me numerous times over the years. And I have looked at it. And I would view it as an eco-friendly project that would have less impact as a commercial development than a residential development on the integrity of the desert. Now, how do I know this? I happen to be a radio host for a grain energy show, and we have lots of guests on from sustainability folks over at A.S.U., architects that are obviously energy friendly and eco-friendly and R.L. has done a great job of procuring the right folks to do the work out there. He asked that he would have a zero VOC rating on products. That is unheard of in the development business. Now, the best we could do is get some zero and some ultra-low, but R.L. Miller cares about the environment out there and you support this project, even though I'm an outsider. Thank you.

[Time: 01:20:53]

Mayor Lane: Thank you, Mr. Weymouth. Bryan Moreno who has got three additional cards from Kelly Carroll. I'm sorry, just two. And Casey English. Two minutes, if that works for you, Bryan.

Bryan Moreno: Mayor and council thank you for your time on this project and your consideration. I thank all the people that are here for the project and, again, since it is our right as citizens, to come down here and speak, what I hate to hear is when people are against something, they use the word "we" a lot. Our right is to come down here as individuals and to speak our opinion. And hopefully people will remember that we are all just one voice, each one of us, we get to talk about what we think and I think people brought up a lot of good points. But unfortunately many of the points are not valid. The most valid point is you don't want it up there and you don't want anything, and I can

understand that and respect that.

When R.L. and I bought this property 12 years ago, I took a lot of time and energy to look up and down this corridor and there were no other properties this size or with the buffer around them from residential. That's why this property stands and is precedent setting. There are no other properties that would allow for any type of development such as this and be respectful to the housing around it. The other reason why it's not precedent setting, excuse me is that it's your right as a landowner to always seek zoning or rezoning on any property you have. The overlay is not a promise. It's a guidance. The general plan is not a promise, it's a guidance. If you read the language in it, which some other people, I think, will speak to it. It provides for some room to build a mixture of commercial and residential as it's needed and as it fits together. So everyone can have their own opinion about, that but it certainly isn't a promise.

The last thing I would say is that when R.L. and I put this project together, our goal, our dream was to build a community meeting place, similar to what Greasewood Flats was. Of course, we can't completely reinvent -- or excuse me, we can reinvent it. We can't duplicate it. And the idea is to build a property that fits in with the desert landscape that can be here for many years, many generations where people can come and listen to music and have some food.

Mayor Lane: Mr. Moreno, please, if you would wrap it up. You are in the public comment time here, as far as that's concerned. Certainly as part of the applicant --

Bryan Moreno: Well, in any case, as a landowner up there, I do support this project, and I believe it will be a quality project. Everyone will be proud of and I hope that the fear mongering can stop and people give it a chance, all right? Thank you.

[Time: 01:24:11]

Mayor Lane: Thank you, Mr. Moreno. Next is Jim Akridge, and donated cards from Gary Gutman and Molly Akridge, all but one from Scottsdale. Mr. Ackridge.

Jim Akridge: I'm sorry, I had problems hearing you back there.

Mayor Lane: Oh, I'm sorry.

Jim Akridge: My name is Jim Akridge, Mayor Lane, and distinguished members of the city council, I appreciate very much having the opportunity to speak to you in support of this project. I would like to talk a little about the people involved in the project. I don't think a project is any better than the people that are involved. And I would start with Vern Swaback. I have been involved with Vern. I bought a property that he designed when he first came here after studying with Frank Lloyd Wright for 10 or 12 years and I don't think I ever went to that property. It was called the Citadel. It was on Pinnacle Peak and Citadel. I don't think I ever went there someone didn't compliment me on the project. I think Vern is the gold standard in what he does and I think there's a lot of people in Scottsdale that share that feeling.

The people that are principals in this project are all residents of Scottsdale or the Scottsdale area. As far as I know all of them have been here a very long time. Not only are they not invested in terms of being residents of Scottsdale, they are invested in terms of risking their capital and spending their time and their energy investing in Scottsdale. And this project is a lot of what people come to Scottsdale for. I think it's a shame we have lost all the western places that serve steaks and the western atmosphere that Scottsdale has been known for, for a lot of years. I bought a property on Scottsdale Road and Pinnacle Peak and built a shopping center some 15 years ago. I'm very proud of that property and I believe you can project what people are going to do based on what they have done. And all of these gentlemen who are principles here have been developing awfully nice projects.

I owned Rawhide for several years and I don't know if you remember it, but it was a place that was falling down. I quickly spent \$25 million bringing it up to today's standards. I moved my corporate offices out to Scottsdale and Pinnacle Peak, behind that shopping center that I mentioned. And I own 40 acres right at the base of Pinnacle Peak. If you went down to Pima and turned east on Pinnacle Peak Road, would you run right into the property. I donated a great number of properties there so that that path that goes up the mountain could continue to exist, and I have been involved in Scottsdale a long time. I have been a resident there since 1971 and I believe this project is something that you would be proud of because of the people behind it, the way they conduct their business, and --

Mayor Lane: Mr. Akridge, I would ask you --

Jim Akridge: Thank you very much.

[Time: 01:27:50]

Mayor Lane: Thank you very much and thank you for your great businesses here and what you have done with Scottsdale in the past. Next is Kneko Burney. Ms. Burney has two additional cards. So I would ask for two minutes, please.

Kneko Burney: Thank you, mayor and city council. My name is Kneko Burney I live at 7710 East Monica Drive at the Fairmont Princess in Scottsdale. I was educated at Boston University and Stanford University in mathematics and economics. For 20 years I was a strategical consultant and conducted roughly 1,000 market studies which include polls, surveys and market analysis. I was the individual that did the survey that Mr. Davis so aptly pointed out. I was not paid by the developer. I'm not a staff member of the developer. I'm simply a citizen and a business owner in the city of Scottsdale. I attended both meetings for this property, and I thought because so many people talked about their opinion and what we the people want, I thought the city council and the mayor might like to see what a broader representation of Scottsdale residents would be interested in.

As you can see, individuals that oppose the project were also invited to participate in this research, and I provided some materials about that survey. It's not the most rigorous survey that I have done in my 20 years, but in the 13 days that that survey was available, and sent to approximately 15,000

residents in Scottsdale, so 344 that responded, as you can see in the results, were primarily favorable for this type of project. We did not mention this specific project, because we did not want that to bias the results in terms of any personal bias for the owner or personal bias for the -- for the individual project. It's really on the merits of development itself. I won't go through the results. What I will say is you guys have quite a challenge as representatives of an entire city of 226,000 people according to the 2013 census and that those -- this entire city is not just one neighborhood or one particular group of people. It's an entire residency, like people like me and some of the things we are hearing today is not in my neighborhood. And I can tell you, my mother when she integrated her high school in 1949 in San Francisco heard very similar statements of not in my neighborhood. I hope you consider this project on its merits and not on its emotions. Thank you very much.

[Time: 01:30:43]

Mayor Lane: Thank you, Ms. Burney. Next is Rick Griffeth, followed by Nancy Godfrey.

Rick Griffeth: Thank you, Mr. Mayor, councilmembers. My name is Rick Griffeth I reside at 8855 East Larkspur Drive, Scottsdale, Arizona, 85260. I would like to thank you for your time tonight, and all that you have heard as a former public servant, and the chief of staff for the House of Representatives, a retired judge, and deputy director of liquor, having Herb Drinkwater calling me every day from Barbados on vacation, when he did something at Scottsdale and Shea. I'm in favor of this project because I have known the owners. I know what they put on. I know they do everything that's possible to make sure that its first class and I know their reputation. I have worked with them and I'm not paid. I'm here voluntarily, and I think it's a good project. It's the same reason I go to Durant's in Phoenix. Why? It's a good restaurant. Why do I go to Sushi Brokers? I go there for a burger. It has to be antibiotic-free and grass fed, and I do like the sushi too. But the burgers are great. He does everything first class and that's what the city needs. Thank you.

[Time: 01:32:25]

Mayor Lane: Thank you, Mr. Griffeth. Next is Nancy Godfrey, followed by Ludwell Gaines.

Nancy Godfrey: Good evening, my name is Nancy Godfrey. I'm a resident of north Scottsdale and have been for more than 13 years. I oppose this project. We have been here before. What I would like to do is put -- I echo the comments of the opposers of this, the people wearing the orange stickers. What I would like to say is that a lot of these people I still think don't live in our area of Scottsdale. I'm not convinced what the maybe of this development will be specifically. And I also note that the staff of the city of Scottsdale has found some disagreement with this. Finally, this is -- if you look at this, this is the Scottsdale we love and should maintain. Thank you.

[Time: 01:33:47]

Mayor Lane: Thank you, Ms. Godfrey. Next is Ludwell Gaines. Followed by Bob Cappel.

Ludwell Gaines: Thank you very much, it's a pleasure to be here and talk to the city council, of the



city of Scottsdale. You know, one of the things as a resident here for, I guess since 1992, my address 7100 North Scottsdale Road. I would congratulate all of your predecessors in the great development of our wonderful city. I think everybody can agree that the city of Scottsdale is literally one of the great cities in America today, from a -- from a commercial and from a residential perspective. One of the things I want to make sure that I think that all of the residents that are opposed to this particular development can agree on is that the history of growth in Scottsdale, there's a sense of inevitability. Since I have lived here, the city of Scottsdale has done nothing but grow, and they have done it very responsibly and they have done it very, very well. There is a sense of inevitability as to the growth of the northern part of Scottsdale. I think all of us as the residents of the city of Scottsdale need to ingratiate that. I would also point out that responsible development has been the earmark of what the council has historically approved. Look at D.C. ranch. Look at Grayhawk. Look at all of north Scottsdale's growth. Look at the development of the corner of Frank Lloyd Wright and Scottsdale Road where Sushi Brokers is developed. It's one of the great developments in this city.

Mayor Lane: Mr. Gaines, please. We have run out of time, if you could wrap it up, please.

Ludwell Gaines: Finally, I would just point out that, again, I think this is a responsible development and it's good for the inevitable growth of this city. Thank you.

[Time: 01:35:52]

Mayor Lane: Thank you. Robert Cappel. How are you doing, Mr. Cappel?

Robert Cappel: Mayor Lane, members of the council, Robert Cappel. Scottsdale. I'm really here tonight to report as the president of the board of directors of Winfield for our 1100 plus residents, and as the president of the Greater Pinnacle Peak Association with our roughly over 9,000 readers that routinely follow our articles and stuff. They have overwhelmingly, in both groups, feel that this project should be denied, basically because it borders on the Preserve. It's real residential. They feel it's not needed in this area and it's not wanted by the local residents. So that's that. I would say the last time this came up in Winfield, we have a bigger commercial space between -- which runs from Dove Valley Road to the summit, which this would be a great project for it. It's been for sale for 15 years, but I just wanted to report that overwhelmingly, our residents and readers and members of Greater Pinnacle Peak have been against this project.

[Time: 01:37:31]

Mayor Lane: Thank you, Mr. Cappel. Kenny Nibinley.

Len Wechler: I just got off a plane a couple of hours ago. That's why it was late. I couldn't get the white card for the project, I'm also for change. Change is always good. I'm sorry. Len Wechler. 85255.

Mayor Lane: That's not the name on this card.

Len Wechler: No, he's giving me his time.

Mayor Lane: Okay. But what's the name?

Len Wechler: Len, l-e-n Wechler. W-e-c-h-l-e-r. Is that okay?

Mayor Lane: Yes, that's fine. Now the address on here, that's your address.

Len Wechler: That's one of my addresses. I little in Silverleaf.

Mayor Lane: Okay. So 7121 East Rancho Drive.

Len Wechler: No, I live on North 101<sup>st</sup> Road.

Mayor Lane: Okay. Thank you very much, sir.

Len Wechler: Thank you, sir. Again, real quick. I have lived here for 33 years. I lived in Scottsdale for 30. Change is always what Scottsdale stands for. I was very close to the Drinkwater family. And if Mayor Herb Drinkwater was here, I knew what he wanted. Yes, he wanted the rural and all of that, and his son Mark but he wanted people to have an opportunity. An opportunity to do things and for betterment and, you know, everybody is worried about this little section and this little section. The guy is going to do what has to be done. He will do it right. He will make everybody happy and the one that are no here, he will be their best friends. Give it a chance. Change is good! Thank you.

[Time: 01:39:46]

Mayor Lane: Thank you, Mr. Wechler. Next is Hayden Breen. Followed by Bob Littlefield.

[Time: 01:39:46]

Hayden Breen: Good evening. I'm a resident at 10040 East Happy Valley Road, Desert Highland Country Club. I'm a native of Arizona and have been living up there for the past five years. I think the Outpost is beneficial. You use it to go to Bartlett Lake and boating and camping and to be honest, I think we forgot what Arizona was. It's the wild, wild west. Remember growing up and going to Rawhide and Greasewood Flats with my grandparents and family. We don't have anything. Growth is happening and, I mean, Buffalo Chip is gone. Now it's 162 jobs. We have this gumming it up. This could provide 40 to 100 jobs for other people. And in the end, I feel like this is beneficial. We need to bring back the wild west and have a good steak dinner and a family oriented place and everyone can enjoy it. Thank you for your time and have a good evening.

[Time: 01:41:13]

Mayor Lane: Thank you, Mr. Breen. Last and final is Bob Littlefield.

Bob Littlefield: Bob Littlefield, 8926 East Sheena Drive in Scottsdale. This case is the poster child for everything that's wrong with how this council does land use decisions. It's the poster child for everything I fought for the 12 and a half years I sat up there. The role of the council is supposed to be to support the residents and help them preserve and protect the neighborhood character that they want. But too many times when I was up there and I fear that will happen again tonight, the council majority did exactly the opposite and decided, wait, we know better than you what's right and we were going to decide against what you want. So the question up here tonight is simple. I don't know how the vote will turn out, but I do know that the residents will remember how you voted and they will remember whether you voted to support the residents who put you in office, or whether you voted to overrule them. Thank you.

Mayor Lane: Thank you, Mr. Littlefield. Please, I ask again. Neither applause nor booing. So thank you all very much for your input on this, and we will -- we will have the presentation here momentarily. There are some things that probably should be cleared up a little bit, that this item has never been voted before. It was withdrawn before a vote. So it's never actually been voted before at all. And one of the reasons it was withdrawn is because of the process that it employed at that point in time. This time, it came through the normal process of a general plan amendment, and, of course, this vote on this element. So this is a very different process than the first time which never was voted on. But in any case, with that, the applicant, I presume is at the podium.

Planner Taylor Reynolds: Staff.

Mayor Lane: Sorry about that. I didn't recognize you.

Planner Taylor Reynolds: Am I getting bypassed?

Mayor Lane: No. No. No. We definitely want that hear from you, if you have the assignment, welcome to the club.

Planner Taylor Reynolds: Good evening, Mayor Lane, Taylor Reynolds with long-range planning. I'm here to do a presentation regarding the lone general plan amendment case this year, 1-GP-2015. Tonight, I will be going over the major general plan amendment criteria and process, the lone case, the key considerations regarding the case, and also planning commission's recommendation.

Arizona State statute defines major amenities as a proposal that results in a substantial alteration of the mixture or balance as established in the municipalities in the general plan land use element. The state statute goes on to say that each municipality can create its own criteria for the major general plan process. There's four such criteria. A change in land use criteria, the area of change character area criteria and then finally water/wastewater infrastructure criteria. State statute further goes on to require a process. Each amendment must be heard at city council the same year that it's submitted. The submittal date this year was May 22<sup>nd</sup> with the council meeting tonight. It requires an additional remote planning commission hearing that was held here on October -- sorry, it was held at copper ridge school on October 7<sup>th</sup> of this year and then finally it requires a two-thirds majority

vote, which is five of seven votes.

This graphic depicts the request that the northwest corner at Pima Road and Dynamite Boulevard. This close-up of the site, again, shows that Pima Road and Dynamite Boulevard to the north and to the west places of worship, to the south and to the east state trust land and to the southeast a power line corridor. Again, the applicant's request is for a major general plan amendment to change the land use designation from rural neighborhood to commercial open the site. There's also a companion zoning case which is 10-ZN-2015, which Jesus Murillo will be presenting after myself. These graphics depict the applicant's request on the top is the existing rural neighborhood land use and on the bottom is the request for commercial land use.

So as discussed earlier, the city of Scottsdale has four criteria for figuring out basically whether or not an amendment is a major general plan amendment. This request qualifies as a major amendment for -- via the first criteria change in land use category. The site is currently rural neighborhoods which is in the group a, the applicant is requesting commercial, which is in group e. So, yes, that is a major general plan amendment.

Major aspect of the major general plan amendment process is community outreach and involvement. With that said, there have been four such times before tonight that we have met to discuss this case. The applicant had an open house on June 1<sup>st</sup>, the city staff sponsored an open house on September 10<sup>th</sup> at Copper Ridge. There was also remote planning commission again at Copper Ridge and October 7<sup>th</sup> and then finally there's a planning commission recommendation in this very building on October 28<sup>th</sup>.

Some key considerations of this case include a commercial land use adjacent to rural neighborhoods. This would be first since the adoption of the 2001 general plan. Recent trends as compared to the 2013 land use assumptions report. Desert foothills character plan compliance, scenic corridor designation as proposed by the applicant. Existing entitlements allow for residential development and then finally general plan land use change cannot be to an existing land use or site plan. This graphic depicts a subject site which is currently, again, rural neighborhoods, land use designation and is also surrounded by rural neighborhoods, land use designation. Under the 2001 general, there is nothing like this before. This request would be precedent setting.

In 2013, the city completed a land use assumptions report detailing land use and demographic projections through the year 2030. According to the study, the north sub area, which is Deer Valley north to the tip of the city, is projected to absorb an additional 144 acres of retail use. As well as 3300 acres of rural residential use again by 2030. Recent land use and market actions actually indicate a trend in the development of single family residences rather than commercial retail.

Several other general plan amendment cases over the last two years seeking a change from commercial land use to single family land use have been adopted by city council, thus decreasing the amount of available commercial land use in this area. The applicant's proposed change would result in an increase of available commercial land use in this area by 3%, which is contrary to these market trends that I just discussed, however, they could be absorbed possibly through land use projections.

As discussed there are several recent general plan amendments in this portion of the city, that saw the change from commercial to single family residential. They utilized that the 2013 land use assumptions that I just discussed as well as their own independent market analysis to make the assertion that there's an overabundance of commercially designated land within this area of city. While the applicant did not provide any independent market analysis, they did state that this is especially retail that's not in competition with the conventional retail that is in the north sub area and that this proposal could not occur at any of the other existing retail locations. The applicant further went on to say it would be a grocery store, a feed store, a flower shop and a fueling station, and hardware store.

Because the applicant provided this discussion in the narrative, city staff wanted to provide factual information as to what currently exists in this area of the city. So we utilized M.A.G., Maricopa Association of Governments' data and our mapping software to map some of these retail uses in the northern area of city. We looked at one, three, and five miles buffer of the subject site. Within one mile, there's no similar use; but within three and five, there are several restaurants, feed stores and gas stations and hardware stores. The subject site is found within the desert foothills character plan.

This plan considers rural desert character which is essentially how the existing low density development is balanced with the preservation and the continuity of open space. The plan does denote prominent land uses within the area, including single family development, equestrian facilities, places of worship and public infrastructure, although the plan does not prescribe allowed uses in the area, it does describe how these existing uses can promote this rural desert character.

Although applicant proposes land use other than these prominent land uses listed, they state that they do intend to meet the goals of the plan through building materials, site design and preservation of open space. In the 2001 general plan, scenic corridors are major thoroughfare provide an open space. It denotes a 100-foot scenic corridor dedication which is line with the scenic corridor guidelines, however at the October 28<sup>th</sup> meeting, the applicant stated that they would actually be providing 150-foot scenic corridor dedication. The remote hearing said that commercial property is unlikely to develop open the subject site.

The following slides depict several locations within the city that have similar traits to that of the subject site. And all of which ultimately developed single family residential. This first slide shows the infer and the southeast corners of Hayden and Jomax which is just a mile away from the subject site. Both sites are adjacent to the power line corridor, as well as the state trust land and are within the rural neighborhoods, land use designation, both of which developed as single family residential. This site, the northwest corner of Frank Lloyd Wright and cactus again has rural neighborhoods and land use designation and adjacent and developed single family residential. This site between Shea and Mountainview west of 120<sup>th</sup> street, again has rural neighborhood land use designation and is adjacent to a power line corridor and finally this site southwest of mountain view and 124<sup>th</sup> street has rural neighborhoods land use designation and is adjacent to a power line corridor.

The general plan -- excuse me. The approval of the general plan amendment does not directly

correlate to a specific zoning district. The specific uses or the development standards can't be stipulated to the site for the land use plan. It can only be accommodated in zoning stipulations, which is why general plan amendments typically -- are typically accompanied by a thoroughly vetted zoning case. When considering this zoning plan request, it should be noted that because of -- as a result of adopting more intense commercial zoning districts could be available as an implementation of this commercial land use designation, such as c2, c3 and c4, however, there are less intense commercial zoning districts such as C1 and PNC being the zoning request that the applicant is requesting, however, this zoning district requires a certainty of a use permit associated with a gas station for which the applicant has yet to apply for.

As a recap, this case could be precedent setting in terms of commercial land use designation adjacent to rural neighborhoods, recent north Scottsdale land use decisions, as well as marking conditions suggest no new commercial is needed at this time. This property can, indeed, develop this residential land use per current entitlements, and general plan land use cannot be stipulated to a specific zoning district or site plan. The planning commission heard this case on October 28<sup>th</sup>, this year. With a vote of 4-2, they did recommend the city council adopt a resolution 10276 which is major general plan amendment request, and they further recommended the approval or the adoption of ordinance number 4229 which is the companion zoning case, which Jesus Murillo will speak to stipulating to the site plan. That concludes my presentation. Thank you.

[Time: 01:55:32]

Mayor Lane: Thank you, Mr. Reynolds. We may have some questions and we may go ahead and -- if I might, you can answer from there, if you would, there is one question that I have with regard to the staff's recommendation on this. It's been mentioned several times, and that is a recommendation for denial. And the last time the subject was even broached or discussed, staff recommended for acceptance. Are there some specific elements between the cases? We are talking about a year and a half to two years ago. Is there something that changed staff's opinion on this?

Planner Taylor Reynolds: Mayor Lane, members of city council, as I discussed on slide 13, in terms of that 2013 land use assumptions report which has come out since that recommendation was made, because I believe that recommendation was made in 2009 or 2011.

Mayor Lane: No, I don't believe it was that long ago.

Planner Taylor Reynolds: At any rate, the 2013 land use assumptions report, as I did discuss noted that there was 144 acres that was yet to be absorbed by 2030 in researching northern area of the city. This actually is 100 -- a little over 165 acres available that have yet to be developed as commercial land use.

Mayor Lane: Okay. And so that's the principal reason that decision or that recommendation was reversed.

Planner Taylor Reynolds: Yes.

Mayor Lane: Okay. Thanks very much. I don't know if there are any other questions at this time for staff. But I just wanted to make sure that we were clear on that. Okay. So if the applicant would like to -- I'm sorry. I'm sorry, Jesus. I didn't mean to overstep you there, for the other section in this.

Senior Planner Jesus Murillo: I thought I was getting off.

Mayor Lane: Not so easy. Not in my charge.

[Time: 01:57:38]

Senior Planner Jesus Murillo: Good evening, Mayor Lane and members of the city council, my name is Jesus Murillo, I'm a senior planner with the city. We need the approval of the general plan amendment in order for this case to be approved or else it would conflict with that decision. I also, as you brought up earlier, this case has come before in different various forms to the council. The last time being in 2011. At that point in time, the cases were also accompanied with a conditional use permit, at this point in time, the applicant stated that they first wanted to make sure that they could vet the general plan and the zoning case before proceeding with the conditional use permit. It's currently zoned R1-190 ESL FO. Which focuses on the nature overlay and the protection of vegetation on the property and then furthermore, it has another overlay which is the foothills overlay, which you heard a lot of tonight. And that looks to appreciate and preserve the rural desert character of the area.

The applicant is requesting to zone to PNC ESL FO which is a planned neighborhood commercial district and that's kind of designed to create a hub of destination for a particular site. On this site, this is kind of a broad view of the area. The site there is in the center in yellow and as you can see on all surrounding it, it's completely vacant with north and to the west, having a church and a little further more a ranch. As you can see, across the street, to the southeast, that's whether the major power line corridor is located. So there's a use in green. Those are areas within the McDowell Sonoran Preserve. Those are areas that the city has designated as wanting to purchase that land for preserve areas. Those orange annotations are lands that the city of Scottsdale already owns while the green ones or the bluish green are the one that the state land currently is under the ownership. The red dashed line that you see is a foothills overlay, and as you can tell from the green dot across the industry, the north area axis report does propose a trailhead located to the east of this property. A closer look at the site, you can see that this is a major wash that cuts the site in half, still over 50psf, comparable to this wash, and intersects to the north both Pima and Dynamite boulevards are scenic corridors and the applicant has proposed providing 150-foot setback versus 100 required by ordinance in the general plan.

This is the site plan that the applicant is proposing to be stipulated and that the planning commission requested to be stipulated with the zoning case. As you can see, there's a bar and general store, feed, hardware store and restaurant, and as you can tell, the buildings have been organized around

the wash which is central located to the site, and the applicant has proposed providing both trails required along the scenic corridor to complete the trail system. This is the landscape plan that the applicant has proposed with the project. And this is the NAOS plan that has been proposed with the project. The applicant is proposing to provide 64% of the site -- almost 65% of site as natural area open space, which is 6% more than required by ordinance. And these are the elevations that the applicant has provided as part of the zoning case. It is usually more appropriate to have these elevations approved with the conditional use permit, but it has not been unheard of that elevations are proposed along with or stipulated along with the zoning case. And in this case, since there's no conditional use permit, that might be something that the council considers.

So in conclusion, the request again is contingent upon the approval of the general plan amendment case. The property is located within the desert foothills and the applicant is not requesting to have that rezoned out of it. Staff's review did also identify some important missing criteria. Every application must stand on its own. The previous applications have expired and at this point in time, staff do not feel it had enough information to make a recommendation or the appropriate stipulations. There has been obviously as you know, this is supposed to go before the significant community input. As you know, that's been a large in both opposition and support. Currently the site plan is disturbing less as proposed than the single family uses that are entitled. The applicant did not commit the conditional use permits as previously proposed and if this were headed towards approval, staff would recommend that you do look at the 150 -- stipulating the 150 feet that the applicant has proposed including the 100. That concludes staff's presentation -- oh, I'm sorry. No, it does not. On October 28<sup>th</sup> the planning commission did hear this case and recommended approval with the vote of 4-2. That concludes staff's presentation and staff is here for any questions.

[Time: 02:04:18]

Mayor Lane: Thank you very much, Jesus. All right. With that then, I do believe the applicant then could step to the podium. And what I would like to do here, because we generally do allow for some time in specific response and I mean specific response to some of the testimony that may be given, either correct or consider, I think we would normally have ten minutes, but I will allow some additional time if you want to address those. If you want to go with the presentation and then potentially if you made notes on any of the comments, we will allow some additional time beyond the ten minutes.

Applicant Paul Gilbert: Thank you, mayor and members of the council, my name is Paul Gilbert, 701 84<sup>th</sup> Street. I need to clarify one thing. There was some confusion on the amount of the scenic corridor. It's 100 feet and not 150 feet. There's some mix up regarding some of the roadway but it meets the requirement. We are exactly in conformity with the scenic corridor requirement.

I appreciated mayor, your pointing out that the city council has never turned this application down. We have heard that the -- from the neighbors this evening that you have and, you know, we have gone through this rigmarole, we withdrew because the council doesn't like the posture we were in. If you recall, it was an ordinance amendment. That was not a popular way to solve this issue, and so we withdrew the application, came back, and consistent with, we thought, with the guidance that we



received from the council and came in with a straight zoning case. However, while the city council has never denied this application, the planning commission on the other hand has approved this application twice. So both times we have been heard by the planning commission, they have recommended approval. The staff is 50/50. The last time we were in, the staff recommended approval. This time denial. The major reason given you, we didn't justify it from an economic point of view. I submit that that is irrelevant and should not be dispositive in the issues discussed this evening.

Now, the most important thing I want to focus on is the surrounding and the existing uses on the site. I apologize that that's a little smaller than I wish it were, but let me review with you the surrounding uses and then let me posit the question to you, can you in all honesty and candor and being fair as we have heard numerous references this evening, decide that single family resident is going to go on this corner? I submit it will never happen. It won't happen because of what's around there, and it won't happen because of the pattern of development that's already taken place, which should give us some guidance as to what's going to happen in the future.

First of all, there's the large Scottsdale First Assembly Dream Center, located 650 feet to the north. Look at the parking lot here of this church. Now, talk about preserving the desert. Talk about the Sonoran plans. We are coming in and we will regale you with a lot more detail on this in the immediate future, of open space, more than is required, less of a footprint, less structure, more open space. This property can be developed as a church and I'm not criticizing this church. They had every right to do, that but that's what was developed, and that is what is immediately to the north.

Adjacent to us, and you heard from the owner of this property owner, earlier this evening, you have staples. Staples. Places that horses are kept. It's clearly an intense business-type use, because look at the structure that's on this site. Look at the size of that! That's what's immediately kitty corner from us to the north. That's allowed under the existing zoning. And then look at the trucks and the type of activity that are going on there. They are a good neighbor. They spoke here in favor this evening. We appreciate that, but it shows you the intensity of the development immediately around us. It doesn't stop there. There's an excavating yard immediately to the northeast. Then we point out as has been referenced earlier, this is a major intersection, or minor arterial, right adjacent to the site and notice that the ASLD is coming in and in the area indicated in brown -- I don't know if it will be approved but they are looking at coming in and asking for 5,000 homes in the immediate area.

So there's a lot of activity going on in this immediate area and last, the piece of resistance is that the high voltage transmission line also traverses this site. It's immediately kitty corner and here's what some of those transmission lines look like. Those aren't just figments of our imagination. Those, members of the city council, are the actual holes and transmission lines that are there and exist now.

Now, you put all of those together, and let me ask you very honestly, and pragmatically -- I don't think you can say that this is an appropriate site for residential. It would be difficult, I submit, to find a site with all of these challenges surrounding it, that is planned and zoned for low density residential use. I also submit that it is an erroneous predicate to postulate that at this immediate corner there will be

two single family residential homes. We were regaled by the staff with several instances where there's power line, and almost always zoned r-133 adjacent to these power lines, but never can the staff produce, nor have they, a confluence of so many uses that derogate from the use of the property as residential, as is in this corner. Furthermore, there's a plethora of uses that could go on this site, that are allowed as a matter of right. We have churches. We have seen examples of that, and indeed the owner of the property adjacent to us is a church. Charter schools, day care centers, adult care, with a use permit, boys and girls clubs, private colleges, so there are a lot of uses that could go on there and I think that we can take instruction from the fact, what's gone on there now? Not one single family home. Focus on that. Not one single family home has been built on this site in the immediate area in the many years that this site existed. These uses all congregate and mitigate against single family home being built on this immediate corner. It's just not going to happen.

Seven quick points. One should note that no one this evening has said anything negative about the plan and mayor, I would like to give some of my time to Vern Swaback. Not now. Relax, Vern you are coming up, as part of the applicant's --

Mayor Lane: Note the time too, Paul. We will add some time to the ten minutes, but --

Applicant Paul Gilbert: I get it. I'm trying to move it along. It's hard.

Mayor Lane: I'm glad they stopped this clock while we had this little dialogue too.

Applicant Paul Gilbert: All right. Seven quick points that I want to make in connection with this case. No one has said anything negative or in derogation on the quality of the plan. No one has said and pointed out with particularity how this plan derogates from preserving the rural character of the neighborhood. We do it with this plan. The other uses that are on there now, that are allowed as a matter of right do not. If you want to preserve open space, if you want to have landscaping, if you want to have setbacks, if you want to have all of these things consistent with the desert foothills character area plan, this is the plan that you ought to be adopting. Talk about -- more about that in just a moment.

A couple of other important and I think salient facts are the design is sensitive to the Sonoran desert character. We will have a minimum disturbance with over 60% open space to remain. And the design -- focus on this -- that utilizes 7% of the building footprint for the entire property. Building setbacks are 195 feet and 200 feet. Virtually we will keep the 100-foot open space consistent with the foothills guideline. And basically this project will be a quality addition to the area and constant with all of these goals that everyone who has spoken against us seems to advocate.

Now a fair comment and it was brought up by some of the neighbors in opposition. Well, how do we know that what you -- what we see is what we are going to get? A fair comment. First of all, in the staff's stipulations, and we're agreeing to all of the staff's stipulations, there's a requirement that we can form to the site plan. We are willing to go a step further and we would suggest you impose on us the following stipulation, prior to the development board approval, the applicant shall come back before the city council with the site plan and the elevations for review and approval. So you keep

oversight on this case and if we come back and show you something that's not consistent with the Vern Swaback plan that we are advocating, you've got an automatic checkup to make sure that we are going to do -- that we are doing what we said.

Mayor Lane: Excuse me just one second because we are out of time on your original ten minutes. Can we put another five minutes on for the response time as well. I'm sorry, this is what we do for the applicant. Remember, the applicant is here to make the case here as well as anybody else. It's combined two hours plus of -- in segments, I suppose, but that's the fairness that we extend to everybody. This is not something new here with this particular case. So please do that.

Applicant Paul Gilbert: All right. Moving along. I would like to make a few quotes from the staff report that I think are terribly instructive. First of all, we have heard a lot of talk about noncompliance with the desert foothills overlay development standards, and the desert foothills character area plan. May I quote from the staff report, staff report says and there's quote, the site plan does not appear to violate the foothills overlay development standard. That's from your own staff report. So we are in compliance.

All this talk this evening that we are ruining the desert and all of these terrible things are not borne out by our submittal. The rezoning district we have chosen is PNC, which is the least intrusive zoning category the staff went through all the options, this is the most restrictive. That's why we chose it.

And then let me just wrap up here we had a lot of talk this evening about dangerous intersection, traffic. Let me again quote from the staff report, there are 27,700 daily vehicles entering the intersection and this small neighborhood retail development will not -- underscore not -- sorry, I lost my place, I got so carried away with my own rhetoric here. There are 27,700 daily vehicles entering this intersection in the small neighborhood retail development will not add to that amount in any appreciable way. So we submitted a traffic report was reviewed by your staff and that's the staff conclusion. The traffic, did despite all the rubric surrounding that basically says it's not a factor.

Now, Vern will take a couple of minutes about the site plan. Mayor, thank you for your patience. We will wrap it up.

[Time: 02:18:37]

Mayor Lane: Thank you, Mr. Gilbert.

Architect Vern Swaback: I think he's actually covered everything that I would need to say, but I would like to say tonight I kept making notes. I have heard three questions really asked. Is change okay, in general? What kind of consideration has gone into shaping this program specifically? And in particular, to what degree can the applicant before you be considered on its own terms rather than the basic generalities?

When I first arrived in Scottsdale, there was nothing north of Indian School Road. So let's say that change has been the norm. We have been involved in a lot of it. There's a lot of things that have

changed and made Scottsdale less special and some things that made it more special. We hope this is something that will make it more special, otherwise we wouldn't want any part of it.

Then lastly, if you think about the notion of zoning codes and ordinances, they are by necessity standard. We have never gone before a city of any kind without showing drawings, because we are totally opposed to the notion that you by right get to do things that in the execution may be really counterproductive to the city's interests. That's not something written in the codes but it's just something that we do. I mean, you will never see us before a city council or zoning board talking about rezoning just in the abstract.

As for caring about the desert, I was the vice president of the Desert Preservation Task Force. I headed up Scottsdale Visioning which is largely credited with kicking off the whole desert preserve. We genuinely do care about the place. And I would hope that when something special comes along like this, what I have always said is, please consider giving us what we are promising, but demand from us everything we promised. Thank you.

[Time: 02:21:40]

Mayor Lane: Thank you, Mr. Swaback. I appreciate it. We then have the opportunities of questions of either staff or the applicant and I do not have a working screen here. So I am actually disarmed and looking ahead to determine who might be looking to speak first. And there's special consideration to Councilman Phillips. I want to make sure that you push a button, it won't mean anything to me here. So any case, with that, I open it up for questions. Or a motion. If there are no questions. Wow! Okay. Vice Mayor? Thank you for picking up. Do you have a motion or a question?

Vice Mayor Smith: I guess it's some questions and I think I heard the answer but I would like to hear it clearly. Mr. Gilbert, you said the setback was going to be 100 feet and this 150 is simply a misunderstanding or whatever. So it will be 100 feet; is that correct?

Mayor Lane: To respond to any questions, please go to the microphone. You don't need to stand there continually.

Applicant Paul Gilbert: I will answer and sit down. The answer is yes.

[Time: 02:22:19]

Vice Mayor Smith: Okay. Thank you. I guess a question to Mr. Reynolds, the comment was made that most of the other residential developments that are at or near power lines that staff put in the staff report, were generally r-43. Is that a correct statement? I didn't pay attention as the slides went quickly by, but --

Planner Taylor Reynolds: Vice Mayor Smith, Mayor Lane, that is correct. Most of them are r-143. The southwest corner of Hayden and Jomax is, indeed, r-170. Does that answer your question?

Vice Mayor Smith: Yes, it does, thank you. While you have the microphone, you explained, and I think somewhat differently than Jesus did, the reason the staff opinion now is against this project is because you said it is contrary to the 2013 land use assumptions. Can you explain what you meant by that statement?

Planner Taylor Reynolds: Sure. So the 2013 land use assumptions report, again, had projections through 2030 for both land use and demographics within the city for the purposes of the water resources department. In terms of the north area of the city, it projected that by 2030, 144 acres of commercial would be absorbed by that time. Currently commercial in the north is composed of roughly 400 plus or minus acres and this is north of Deer Valley Road. Again, currently there are 240 of those acres roughly developed and, again, roughly, 160 available acres that are not developed but are commercially land use designated in the 2001 general plan land United States map. So these 166 acres could accommodate these existing 160 acres could accommodate those -- that 144-acre projection in the 2013 land use assumptions report.

[Time: 02:24:45]

Vice Mayor Smith: Then a question for your associate, Jesus. You said the reason for the staff negative report on that project was -- and I'm trying to remember your words exactly but something to the effect that we have not gotten such information from them. Use your own words and then explain to me further what you mean by that.

Senior Planner Jesus Murillo: Yes, Mayor Lane and Vice Mayor Smith, as stated before, each application has to stand on its own and so when we received this application, we went through two review common letters. Of the second review common letter, it was time to schedule for the general plan, and therefore, we had to write our report. So it's -- at that snapshot in time which has not changed we did not have sufficient information for various of the submittals to be able to accurately be able to provide a recommendation to the council or to provide stipulations that would adequately fulfill the site plan.

Vice Mayor Smith: So that leads me to two questions did you have less information than before, because I didn't think that the plan had necessarily changed and the second question, you can answer them whatever order you want. But do you now have information that was missing at whatever time you were going to go public with your report?

Senior Planner Jesus Murillo: Yes, we do have less information now and to this point in time, we have not gotten any additional and usually what happens is when we write a report, the clock stops on the applicant resubmitting information.

Vice Mayor Smith: And so to the first question, you have less information now than you had in 2011 is that what you are saying?

Senior Planner Jesus Murillo: That is correct.

Vice Mayor Smith: And can you tell me what pieces are now missing that were, perhaps there in 2011?

Senior Planner Jesus Murillo: Yes, Vice Mayor Smith, for example, the drainage report there were some -- the analysis was done as far as verbal but there were no calculations to -- when we do a case such as this, we always -- the ordinance and the design standards, the policies manual ops that staff requests for 50% of the analysis to be done so that we can safely say that at least for the proposal, this site plan can work. The drainage report had analysis but didn't have any of the calculations and so at this point in time, there was not a wash modification submitted for the wash, and the way it's treated here, the drainage staff did not have enough information to state that at least with this application that the proposal could stand for the site plan that we are providing -- that was provided now. The basis of water design, the way water and wastewater reports at the final snapshot when we wrote the report, had been designed for the existing proposal. And so that was one of the comments in the second review comment letter.

Some other things that kind of, again, make it difficult to stipulate is that we had had the initial parking analysis done which showed parking the way it was previously proposed and we submitted a new parking analysis which showed parking spaces existing over some of the buildings that you see now and so staff wasn't sure at that point in time, if these were underground or whether it was a change to the existing site plan, and if it was underground, then obviously now that affects the way the drainage report and the water design reports are done, versus the site plan that you see now. And so there were -- I don't know if you need more examples but those were some of the bigger ticket items. And when -- when staff writes the stipulations, and we stipulate to a site plan, we try to make sure that relatively with some small changes, that will -- that will continue forward on to the next step, and at this point in time, we were nervous that if we stipulated that site plan and something changed, we would have to turn to the applicant and say you have to go back to the planning and the city council, and because of this analysis we made that recommendation.

[Time: 02:29:13]

Vice Mayor Smith: So then a question to the city attorney. The applicant has offered to let the council include stipulations in a variety -- in the entire package of submittals, the site plan, the elevations and all of that sort of thing, and is -- and has said furthermore that prior to DRB approval, they would be willing to come back for site plans and elevations for further approval. Are those the kinds of things that we can actually stipulate? Can we attach that to an approval? And with what consequence?

Mayor Lane: Mr. Washburn?

City Attorney Bruce Washburn: Yes, thank you. Yes, for rezoning, you can stipulate to a specific site plan. As for bringing back to council, it's not completely clear what the effect of that would be. Because once people have their entitlements and their zoning approvals can they have plat approval. I don't know if the intention would like a super DRB and be able to, you know, request certain, you

know, cosmetic issues so perhaps Mr. Gilbert could address further what he intended with that particular proposal.

Mayor Lane: Mr. Gilbert, if you want to move to the microphone.

Applicant Paul Gilbert: Two comments. That is our intent. We realize we submitted a drainage report, frankly, we ran out of money going through on this. We got the drainage report in, but apparently it was late and couldn't be accepted because there was some miscalculations in the figures, but it was always our intent by not filing for the conditional use permit, we would come back and at the time of the conditional use permit, would you get an opportunity and another crack to do all of these things. And at that time, if you are so disposed, we know we have approval, and can come forward and give that kind of detail.

Secondly, in answer to attorney Washburn's inquiry, it is our thinking and the purpose of the stipulation is to give you full plenary power to modify the site plan and require whatever you deem is appropriate before we go forward to the DRB board.

[Time: 02:31:48]

Vice Mayor Smith: I don't know that I have any other questions, but as long as I have the microphone, I guess I will make some comments. And then maybe others can do the same thing. This is a particularly difficult case given the passions of the people on all sides of the issue. So I want to be clear about representing what my position is. I consider myself a representative of the citizens. I'm sure everybody up here would say the same thing, but I made a particular point of that when I was running. By that, I mean I represent all of the citizens and in this particular instance, while many of the people that we're hearing from are in ZIP code 85266 or nearby ZIP code areas, this is -- even though it's just a filling station on the corner of two roads, it's an issue that, I think, affects all of citizens and that's why we have heard from a lot of citizens that are outside this area. In point of fact, the general plan, as it relates to this north Scottsdale area and the rural area, it's a general plan that was approved by all the citizens, not just the neighbors up there. And the general plan has provisions in it for change, when it's deemed appropriate and it has a process for that requiring a laborious review and super majority of council voting, whatever, but all of that, again is -- our conditions that were voted on by all of the citizens.

And -- and it obviously is true that all of us up here are elected citywide. We represent all of the citizens. We are not elected to represent certain areas of town. There are numerous instances where we are supposed to be speaking as all citizens of Scottsdale, because we all use that as our return address. We all vote on bond issues, whether they affect our area or not. And hopefully we do not do so in a province fashion but we do so in a way that benefits the city. I say that, considering all the opinions of the citizens of Scottsdale. I hope they enjoy our city but I won't let them determine how the city develops.

I also have heard some comments about, you know, the personalities of the people involved in this project. I don't put much weight on that. I think there are ways that we protect a project without

insisting that it be a popular person necessarily that is in charge of it. This is not a popularity contest that we are running up here. We are talking about a project that will impact this particular site and all of the Scottsdale for years and years to come. It's not an individual issue.

I think one of the things that I gave the most analytical thought to was the arguments that there's already too much commercial and we don't need it and we have plenty of shopping available, plenty of shuttered and emptied buildings in our area. And that's why I asked the question about the distribution to staff about the land use plan and what it really was telling us. This is a fairly recent development in 2013 that was done at the request of the city. It was to evaluate the future needs of the city, both residential and commercial and how we might develop. It ultimately was used -- was adopted by this city council and it is supposed to be used in guiding our decisions. And what I thought was true is true and that is the plan says that we are going to need and what they call the northern area of town, 114 acres of commercial in the next 20 years, and while the staff report didn't say what percent that is of the available, they told us tonight the available is something 160 acres, I guess. Leaving a comfortable margin of 14 or 16 acres. And I say that somewhat facetiously, a comfortable margin of 16 acres over the next 20 years. And what we have done, what we, the council, whoever was comprising the council when these decisions were made over the past couple of years, we have removed 57 acres from the commercial designation in the north Scottsdale area and converted it to residential. We have removed acreage that might be available to meet the needs of the next 20 years, and in return, we have abrogated the residential impacts in the future because that's what we converted the land into. In fact, the residential, I think, by the same report is expected to grow by 28% in the -- again in what's called the north part of town.

When that general plan is put together, there is an assumption that they are going to allocate some portion for the residential development and some portion for the supporting commercial development to meet the needs of that area. And I think the -- it's probably true that the -- the plan may not see with infinite wisdom what the future needs are when the general plan was put together. Let's not forget we have been struggling for years to update the general plan. The document we are talking about is almost 15 years old. And several speakers have talked about the development of the city in the past several years, but when that document was put together, it delineated a certain array of commercial versus residential development in the north as well as all other parts of the city and the voters saw that and they approved it. And things have changed. And you see that change and the fact that as I said we removed 57 acres from the designation of commercial.

And what the applicant isn't requesting here is to add back 10 acres and while he hasn't said so, maybe the implication of what he's saying is the designation in that plan we put together 15 years ago didn't have all the right colored spots. Maybe there were better spots to be commercial. And what he's essentially saying is that, I think, a better spot would be to locate the commercial at the intersection of two arterial roads. The general plan always tries to locate commercial on an arterial road and here there's actually an intersection of two arterial roads.

I hear the staff saying, we have 160 acres of undeveloped land and we only need 144 20 years from now, and I guess I'm not -- I'm not comfortable that that's -- well, I just don't feel comfortable necessarily with that assumption, that we are therefore in good shape. I'm not even sure it was a



comfortable thing to do to remove the 57 acres that we did from the commercial designations, but we did it. That's history now and it's already become residential.

And a lot of applicants talked about how this is just the wrong location for it even though as I said it's the intersection of two arterial roads, but I don't really want to get into the question of what might go here. I mean, I know that the application is that it's going to be two homes because it's r-190 and that's what is allowed. One home per 5 acres. But the staff report, when they went out to do a study of what would be the impact of this converted to commercial somehow came up with a magical number that we would lose six homes. So whoever the analyst was, was assuming that six homes would be built on this site and then we found from the slides that were presented that in other similar situations, if there is anything similar, that they end up with r-143 kind of designation that would end up with 10 homes or more might be built here.

But do I think is this compatible with rural? You know, commercial is -- I don't think you can say commercial is compatible with anything. It is a necessary evil to support what a community needs, and to suggest that it's not compatible with rural but it would be perfectly compatible with somebody else's home, in urban or suburban, I don't follow that logic. I'm not saying it's compatible with or camouflaging the rural. I did make the statement one time. It's true. I do know rural. I grew up in a very rural environment. And not suggesting that this is rural. But it does seem to me like building this on the footprint that they are building it on or suggesting that they are going to build it on, is about as friendly to the rural environment that you can have commercial development be and we will have commercial. It's in the general plan. We have, whatever the acreage is, designated as commercial support for this area. So I'm not sure I can -- I'm not sure I can turn the project down for -- for it not being rural -- rural.

And then the greater question, I guess is what kind of a precedent are we creating? And that I'm sensitive to, I had staff reports come to me and say, you know this is appropriate because don't forget two years and three years and four years ago, we did, x, y or z.

I think precedents are very important and that's why I think it is important, if we approve this, as a council, I think it's important that we recognize we probably are setting a precedent. And if we are setting a precedent, let's make sure that it's a precedent that we'll be happy to uphold in the future, that it's a precedent that talks about adequate setbacks respecting the scenic corridors, that it's a precedent that talks about more naos space and acreage rather than what is actually required. Let's make sure it's a precedent that respects the environment as best we can.

And let's not -- let's not turn loose of this, just leave the approval at tonight. Let's remain focused on this as the client has offered. If we approve it, let's make sure it comes back to us and as I think Mr. Swaback said, let's make sure that they are held to their promises. So let's incorporate the stipulations and offers of what they have said they will do as much as we can. And I guess the -- my position is the only way I would approve this project is if we can be sure that what we see is what we get -- I probably talked long enough, Mr. Mayor. Thank you very much.

[Time: 02:45:49]

Mayor Lane: Thank you, Vice Mayor. I appreciate that. One thing I think we need to keep in perspective always. I think there's a fair amount of misinformation about this project and its past and whether it's passed or not, and whether it's been voted upon before or not, what the situation was, even the last time. There's one big factor that has to be considered here that I think is really very important because we are going through the process the right way this time.

One of the avenues that was suggested and frankly implemented last time, was to make a zoning change amendment, a zoning amendment to this designated residential property, allowing for commercial under some stipulated positions. It was a text amendment, what we call a text amendment. And in part, that offended a number of folks on this council, because what that does is for that entire residential zoning classification, you changed the criteria for having commercial activity on that property through the city. So in this case, the applicant has gone by exactly what the rules dictate.

State law requires that we have a general plan and it is just that. It's a general plan of land usage, primarily. And it gives us an idea of where things need to be, what extent of commercial, but, you know, no one can actually forecast exactly where it's going to be. In fact, we used to have and, in fact, we still do have a noting star out there -- a floating star out there in the north that can be used for a different application than what's on the property, only because nobody could figure out how where it might necessarily need to apply.

Now, that may scare some of you, but the fact is that's how you have to think about when you are starting to plan a community and what kind of mix of amenities that you need to support that in a logical and efficient and reasonable and responsible way. But going through the process this way is going through a general plan amendment. This is a tough program. It takes over a year from the first time you even think about it because you have to apply as was indicated in May and it doesn't come up until the fall or the winter as we are sitting here right now. So you've got to put a lot of -- you've got to invest an awful lot into this process and understandably so because that's one of the things it is. But state law and state constitution requires even through our growing smarter general plan, requires that we have an avenue for a property owner to consider under circumstances how is the land to be used.

We are also not here as -- and frankly this comes to us from time to time, and it has more than a few times since I sat on this council, where businesses say, hey, we don't really want the competition. So that's the reason we are against it. Well, that's not the criteria that we can use ever in that kind of situation. We've had car washes that say, I don't want a car wash next door. We had grocery stores saying we don't want a grocery store that close to me because they don't want the competition but that's not what we are about. That's not our job up here. So that type of consideration is not one we take strongly.

Do we consider the general population? Absolutely we do. You know, we have got two surveys up here, one by Mr. Davis, who spent most of the time basically challenging Ms. Brunner's -- Burney's opinion poll. They tell two very, very different stories, I will tell you, and I think they are both

somewhat credible. But that's not -- you know, that isn't the way that kind of thing actually weighs out. I can't just weigh that.

I could as I mentioned to my councilmembers. We can take the cars and we can weigh them in our hands the pros and the cons and the challenge was made that, you know, what was the situation with regard to where people were from? Well, what were the challenges on that? Well, of the 21 written comments given to us, three of them were not from Scottsdale. Of the 31 that were given to us for the project, seven of them were not from Scottsdale, as indicated on the cards. I don't know what that tells you, but, I mean, we deal with this kind of thing all the time and frankly when somebody takes a position, we have a tendency to exaggerate or minimize the numbers.

We have to deal with the facts as best as we can, go through the process. As the Vice Mayor said this is not an easy one. Never are these things easy. We do have to think about how the entire thing fits together. If there is a commercial need, and frankly this is not a matter of weighing one commercial enterprise against another. It's a community or a marketplace, the best we can determine -- we are not all market analysts either, but we take the information as best we can get from staff. And so we look at that.

And we say as Vern very aptly pointed out, and if you don't know Vern Swaback, he as a highly respected architect and planner for the city. He has been for years and the Frank Lloyd Wright school of architecture, and he has great concern for the kinds of things that go into our community. And has demonstrated that time and time again. Do we weigh that and his personality, I don't know if I would talk about your personality, Vern, because that may go against you. But your professionalism and what you have done for Scottsdale, I do weigh positively on something like this. Where is it going to be appropriate? Where does it make sense for a property owner and does he have a right to consider through the process for us to deem it? There's no bad guy here. I mean we can try to make that kind of thing, but there's really no bad guy here.

So, you know, I'm -- I like Vice Mayor, feel strongly that if something commercial is going to be on a site that I deem to be at least relatively reasonable for commercial activity, I have lived through the Summit, Marketplace and all the problems that they had on the stipulations of being able to be seen from the roadway. We had to go back and amend and make sure that they had some chance to survive. Nobody knew that the marketplace, except the people in D.C. ranch. The Summit, I think continues to struggle. What this project and this applicant has put into this project frankly plays into those setbacks and that environment. That's what he's -- he's trying to provide that kind of environment. And for that kudos to him. I think that's a strong one.

But as I was starting to say, like Vice Mayor, I think it is very, very strong because entitlements as we have come to call these things and it's an odd area of things when you even think about zoning law and municipalities, power over property owners but nevertheless, we call it entitlements as it's often said, they are set once a decision is made. But through our CUP project -- or process, rather, and I don't know who is best to respond to this, whether it's Mr. Washburn or the city attorney or Jesus or Taylor, I'm interested as to whether or not we can stipulate and know that through the C.U.P. process this is the project that we would see. And frankly, I don't mean every nook and cranny. I knew

these were renderings, but I'm talking about essentially this project.

[Time: 02:54:36]

City Attorney Bruce Washburn: Mayor, stipulation one to the site plan, to the zoning has basically a requirement for -- let's see, I guess I'm on stipulation 2, conformance to the development. It should be at the land use submitted by design and with city staff date of June 27<sup>th</sup>, 2013, attached as Exhibit a and Exhibit 1, any proposed significant change is determined by the zoning administrator, shall be subject to additional action and public hearings before the planning commission, and city council. So that -- that gives the significant control over any deviation from the existing site plan.

Mayor Lane: That sounds pretty solid and something we have done in the past, and I'm not necessarily an advocate of this, I don't know if there's further comment that needs to be made on, that but that's exactly what I'm looking for, and I think if I heard the Vice Mayor correctly, I think that is -- that is preserve open space -- that possibly fulfills his concern as well. But something we have done in the past, is to be the DRB. This board, we have stipulations for the DRB that they need to be architects or builders or otherwise and it's essentially to materials and to overall look, sometimes color schemes, you know, we can get pretty granular on this kind of stuff. I have never seen it really be a good thing for us to do. And it is something we did. We did it on the Waterfront and I still remember now we are out on the waterfront checking to see whether it was faux stone or real stone and this kind of stuff. I mean, I would much rather that the experts were involved in some of that. But that's -- that's not my concern, even though I'm looking for authenticity of this kind of structure. So I don't know exactly how we cover that. But that may be through DRB but even if we don't appoint ourself as some super DRB, we always have the opportunity and it's not something we utilize often, but that's to appeal a DRB ruling. So I'm sure that's still in the deck of cards as far as what we might be able to do if, in fact, we found the DRB was not sufficient in that aspect of it.

City Attorney Bruce Washburn: That's correct, any single councilmember after a DRB decision can all up for a review for decision by the council.

Mayor Lane: All right, well, thank you very much for that and just listening, I suppose to some of what the background on this kind of thing holds for us. Any further comments from the other council before we go forward on this? Well, you know, each time you hit it, it either goes on or off. I will go ahead and go with you. All right, go ahead and put yourself in. You will come in after Councilwoman Littlefield. Councilwoman Littlefield, you are very gracious. But he's being penalized for punching of the button too much.

Councilwoman Littlefield: That will teach you how to punch the button.

Mayor Lane: You are next - hasn't hit the button. No, push your button so you will appear.

[Time: 02:58:05]

Councilman Phillips: Mr. Washburn, I would like to ask you, stipulations or not, if this property gets

rezoned to commercial, we can never take that back, is that correct?

City Attorney Bruce Washburn: The property could be rezoned by the council afterwards but because of the property rights protection act, prop 207 ordinarily, the council does not change zoning for properties without the agreement of the property owner, just as a general matter. It's not impossible but it generally doesn't happen.

Councilman Phillips: And we would probably get sued if we did do that because diminution of property values once we do that. You know, that's why stipulations don't work. Once you rezone the property, they got the rezoning. So you can stipulate whatever you want. Once you get that commercial property, you can resell it. You can, you know, quitclaim it to your best friend and he can build what he wants. So I don't believe in stipulations. They don't work. Look at Blue Sky. Look at how well that worked out.

You know, I have been in construction for easily 30 years. And when you buy property, you know what it's zoned for or you should know what it's zoned for. When I had a general contractors license and I used to buy 5-acre parcels in county lane in west Phoenix and you rezone it to single acres and build a house on each one of them and sell it. It's pretty profitable. I tried to do that in north Scottsdale. I wasn't able to rezone it and get 5 one acre parcels. I can't do it. I respected Scottsdale's general plan and the surrounding homeowners. So I didn't purchase that property. I stayed out west.

Again, Scottsdale has no protection when we rezone the property. The developer can rezone like the Blue Sky or the Regatta. He can build anything he wants within the new zoning. We can never change a property back. It doesn't matter what drawings we have or how pretty they look. And we have seen this time and time again when developers come up with a drawing. In fact, we have had some that were scribbled on paper and they still got it because they know they are not going to do that.

You know, the applicant must also know the demographic. He must know that this does not support a commercial plan. Look at Dynamite and Alma school. You have got Shell gas station there. There's like 10 acres of commercial property that have been sitting there forever. Nobody is buying it. Nobody is developing it. Nobody is building on it because they know it doesn't -- the area doesn't support it.

You know, we talked about -- we are going to need 114 acres by 2030 and we have 165 acres of commercial and it's sitting there. No big developers are buying it and building on it because they know it doesn't support it. So that comes back to why build -- why change this to commercial and build commercial there? At a site where it doesn't even belong. So I would say if you want to build commercial up north. It's so much easier. You know this particular parcel is surrounded by R-190 and not zoned commercial for good and obvious reasons and it should stay that way. I believe rezoning this parcel to commercial is an unforgivable travesty to our community and would never impose such an irreversible decision.

I would move that we do not approve resolution 10276.

Councilwoman Littlefield: I second that.

Mayor Lane: A motion has been made and second. Would the second like to speak to it?

[Time: 03:02:07]

Councilwoman Littlefield: The button is on. Thank you. This is a difficult thing because what Councilman Smith has said, what the Mayor has said, those are all true. There is going to be commercial coming in and we all want it to be good. But I don't look at whether I'm a judge of whether it's this project or something else. I look at why am I sitting here in this chair tonight? And the reason is because the residents elected me to represent them. Not anybody else.

So let's look at who we heard from tonight. Pretty much from what the mayor said, the cards were pretty even for and against. Let's look at the cards. Who were represented in that? I heard a number of people say, well, I five cards here or ten cards here, I represent these people on both sides. I estimated as the cards came through, there were about 50 to 100 people who wanted this project who were not speaking at the podium but who said that they were in support of it, who had wanted it, excuse me. I heard a lot of people come up and say, I'm an H.O.A. president and I polled my H.O.A. And these are the numbers I heard from that. One was 1100 people who were polled from an H.O.A. One was 9,000. One was 200. One was 500. H.O.A. president Jim Davis, 300 to 500 voter residents were against this. One person. When Phil Scott, Bob Cappel, almost unanimously against this. Troon north almost unanimously against this. Not totally. Almost. But these numbers of people who live in this area in the north of Scottsdale are almost all against having this project.

I have to listen to that. We are talking thousands upon thousands of people who vote in the elections who want us to represent them. Not a developer. Not any developer. This is not against a particular person. This is against what do we want and who do we represent? I have to represent you, the citizens of Scottsdale, who told me they want me to do that. By a large margin, the citizens and the residents of Scottsdale in the north do not want this project.

Approving this is a major general plan amendment would be precedent setting. We heard this several times tonight. Staff has said this, a number of different people have said this. It's a request to allow commercial use and right next to rural neighborhoods, to a rural neighborhood designation. We have never done that before. It's also in the desert foothills overlay, which clearly does not intend for commercial development to be a part of it. Not within its boundaries. People living here have said no. And if we allow something this drastic to occur without a compelling need without the benefit of the good and all citizens the general plan and all the other land use designations against bad development become moot and environment. We might as well toss it all away.

There's no significant difference with the current request compared to the past ones except that the previous request was for an entrance and that restaurant is now called Pinnacle Peak Patio. That restaurant could not survive in its old historic location, and I don't believe it can be reassembled and

resurrected from the ashes and survive at this much more remote location. Sadly and I would love to see it, but I think this is a red herring designed to make the overall plan more palatable to the -- most of us -- who miss the Pinnacle Peak patio.

From my emails and phone conversations, residents in this area do not want this major general plan amendment change and I see no reason to ignore the people's wishes and their votes to -- to approve this major general plan amendment since I believe the majority do not want this in this area and at this location tonight. I cannot vote for this. It is not a case of this plan being particularly bad. I don't think it is. I just think it's in the wrong place. That's the problem.

And I do have one question. We are going to put in commercial and yet there's not going to be any traffic increase. Does that mean nobody is coming? I mean, it doesn't make sense. Thank you.

[Time: 03:07:44]

Mayor Lane: Thank you, Councilwoman. Well, there's a motion on the table with a second. There's no further comments, then I think we are ready to vote. Those in favor of the motion as it's been states please indicate with aye, those opposed with a nay. Nay. That aspect of it we do not have, our system has been down. So we'll -- all those in favor of the motion as stated please raise your hand as a aye. Okay. Those opposed. Nay.

Yes, Councilwoman Milhaven.

[Time: 03:11:56]

Councilwoman Milhaven: Thank you, Mayor. I too represent people and we all got elected by folks who trust us to do the right thing and I believe that the people who voted for me asked me to use my best judgment when looking at these projects. What I heard from the folks who don't want them is the aesthetic is what the concern was, that will compromise my quality of life. I just plain don't want it. Folks talked about rural and that's the aesthetic. I'm not sure that rural and commercial are mutually exclusive. I grew up and I lived in a small town for a while and had a general store and a gas station. It was rural. Please preserve the character of my neighborhood.

You know when we look at these zoning cases, the folks -- the folks who say I'm a neighbor consider the impact on me, well, the property owner is a neighbor also. And so I think our job is to look at and say, how do we preserve everyone's right, their property rights to use their property in a way that does not infringe on their neighbor's ability to enjoy their property. And so I do not believe that this project is going to impose on anybody who wants to ride their horses or live in a rural community to have 100-foot setbacks 200 feet from the road. I think this is very much in keeping with the rural aesthetic of that part of our community.

I heard folks talk about precedent. Well, if there's another 10-acre site bounded by two major arterials on two borders and bordered by churches on the other two, that's going to be across the street from my major trail head, maybe that might be the precedent we are setting here. I don't see

that we will be approving commercial sites in residential areas or do too much because I don't see too many sites that will meet the criteria that I'm looking at.

You know, over 20 years ago, I worked for a bank and I looked for locations where Scottsdale was planning. It was interesting years later, we built almost everything in the order I identified and the very last thing in that list was Alma School and Dynamite, and it was let's watch this intersection. It's commercially zoned. There's not a lot of commercial zoning up north, I'm not convinced this is a good location for retail, but let's watch it. That was back in 1993. Since that time, we preserved 30,000 acres. At one point, there was a conversation that there would be a Target at Alma school and Dynamite which no longer makes sense because we preserved 30,000 acres and so where we originally said we thought commercial made sense, given the changes since then, it no longer makes sense.

The market and the community has shifted. I think this corner is appropriate for commercial and for folks who are worried about the aesthetic, Mr. Swaback and his firm are world-class architects. There are few projects in this community that will have the beauty and the aesthetic of. This I think commercial is appropriate to this site. I know -- I do know we are going to hold them to this site plan. It will be everything they promised it to be.

And I will make a motion, if I can find it here. To adopt resolution 10276, adopting a major plan amendment, 2001 general plan to change the land use designation from rural neighborhoods to commercial on a 10 plus acre site located on the in the corner of north Pima road and east dynamite and adopting ordinance 4229, approving a zoning map amendment from single family residential district, and PNC ESL FO zoning 10 plus or minus acre, property located on the northwest corner of north Pima and east dynamite.

Councilmember Korte: Second.

Mayor Lane: Would you like to speak to it?

[Time: 03:12:50]

Councilmember Korte: Yes, I would, Mayor. I too represent the citizens of this fine city and have read every 275 or 300 emails that have been sent to us regarding this project. I have kept count. It's about 50/50. So who am I listening to? Well, I'm listening to all citizens.

Some of the concerns that I have heard tonight and repeatedly was well, this is pristine desert. It's desert, but I wouldn't call it pristine. We have two major arterials. We have a commercial horse facility well, a couple of horse stables away. We have two places of worship that basically bound this property within a couple hundred feet, and we have a 640k power line that is directly south of this property and I'm sorry, but I don't believe an individual that wants to build on a 5-acre piece of property is going to want to look at those power lines. I don't think that that -- that is just -- that doesn't make sense to me.



This 10-acre parcel is not in the Preserve. We have, as a city, spent about \$700 million in preserving 30,000 acres. This 10-acre parcel is not in the Preserve. It is private property, and there are private property rights surrounding that. And I believe that with the stipulations that we will get a quality project and that what we see is what we are going to get.

Yes, this is precedent setting. But I see it as setting and telling -- precedent -- setting a precedent and telling our community that we value quality projects and quality development standards and we have an architect and a developer that is committed to a quality project that is going to maintain the rural character of this corner. I think it's an example of responsible growth and I'm supporting it.

[Time: 03:15:40]

Mayor Lane: Thank you, Councilwoman. Mr. Washburn, did you have a comment to make on --

City Attorney Bruce Washburn: Thank you, Mayor. You need to vote separately on the major general plan and the zoning amendment because if you voted on them together on a 2-3 vote, the zoning amendment would pass and the major general plan would not pass but you can't adopt the zoning without amending the general plan. So you need do the general plan and then the zoning.

Mayor Lane: So in the motion maker understands that and the second approves that. Vice Mayor Smith.

[Time: 03:16:06]

Vice Mayor Smith: Thank you, Mr. Mayor. I wanted to ask the motion maker and the seconder does your motion incorporate or will you stipulate that it incorporates the stipulations that have been offered and discussed here tonight, among other things the applicant offered -- the DRB, they would be willing to come back for site plans and elevations for approval and then there are other stipulations of, you know, that this is done pursuant to the site plan and that we have seen.

Councilwoman Milhaven: Well, I was relying on the mayor's experience saying that allowing the professionals at the DRB to do that would be most appropriate give than any single one of us, as the city attorney -- if we disagreed with the DRB's decision, we could bring it back to the council and it would be unnecessary -- I would think it's unnecessary because we have adequate protections.

Vice Mayor Smith: There were two questions. One was this stipulation where they offered to bring it back to us before the DRB, and the other question is we would put into the motion the stipulations that staff had discussed just stipulating that what we are talking about is this package, this picture, this look, this deal.

Mayor Lane: I think Vice Mayor, if I may, Mr. Washburn wants to address this. Part of what's contained is the zoning administrator has a judgment call as to whether there's some departure to what's already been entered into.

City Attorney Bruce Washburn: In response to the two questions from councilmember Smith, I recommend against the council trying to act as a super DRB, because there really isn't a process in place for it. And just to have a brief stipulate that says you are going to be reviewing something we don't even really know what that looks like, is that a zoning action, is it not a zoning action, because is it a zoning or a different requirement, we tried to do that before. It works a lot better for the process that we have in place where you can call up what the DRB does. So I recommend against it. That's not -- that's a legal recommendation and not a policy recommendation. You find how much they are making those decisions but from a legal perspective, it's difficult to make that work.

The second question as to which the plans have been shown are actually incorporated in the stipulations that exist, I would ask Mr. Curtis and Mr. Murillo. They are already attached to the zoning.

Current Planning Director Tim Curtis: Mayor, members of the council, the stipulation number that Mr. Washburn referenced has identified the site plan and land uses, or a level of confidence, one of the land uses that's in that package, on that plan is the gas station which requires the conditional use permit, that already will need to get back to the planning commission and the city council before the development review board. So that gives you an element to further refine the specifics of what this overall development will include.

Now, the one thing that requires the conditional use permit on that site plan is the gas station. However, it sounds like the clear expectations from you and all to the development team is that from a compatibility aspect, you will want to see the entire site plan and compatibility is it -- is one the criterion for the conditional use permit.

Now mayor and members of council, if you want to spend more time on this tonight, could you add some of the attachments that were part of your packet to the ordinance. There were some attachments to the packet that include the elevation and there are basically attachments 15, 16, 17 and 18. So again, not to rush you at all. It's always challenging changing ordinances and attachments to ordinances and stipulations here at the dais, while we are entertaining a motion. But if you wanted to spend more time and you felt that that was necessary, there are attachments in your packet. I can refer to those attachments, as well as the pages on the iPad probably to what those attachments are and those can be added to the -- to the ordinance as exhibits to the ordinance. We hadn't done that.

As you know, from the previous presentation, and explanation about the concerns, not all of those are reliable. Not all of the e of the details on those attachments and exhibits are extremely clear or as clear as you would expect from the use permit process and through the development review process, those are all much more clearer, in terms of the detailing, but if those give you a little bit more confidence that quality of the project will be at a higher level, you could add those as attachments to the ordinance, but, again, we are not taking a little bit more time in terms of what exhibits we want to be added to the attachment.

Again with the package that is presented to you tonight, with the ordinance, obviously the site plan

and the land uses are part of the ordinance. It is in a planned neighborhood center. Any changes would have to come back, as well as the use permit has to come back automatically which is a planned use that's stipulated own the land uses. So depending on your comfort level, we could add more time on this or add more attachments and exhibits to the ordinance.

Obviously Mr. Washburn may want to chime in on modifying ordinances at the last minute, but something we could spend more time on.

[Time: 03:22:40]

Mayor Lane: I know normally we don't want to do that only because of the difficulty that it may create in doing something a little bit on the fly. But if I might just for one second ask for clarification, Mr. Simon, what you were talking about. There's a site plan. There are some things that are already attached to this and if there's a major departure from that, the zoning administrator does have some authority no call it back or to call them on it.

Current Planning Director Tim Curtis: Yes, Mayor, again, Tim Curtis with the planning department.

Mayor Lane: I'm sorry.

Current Planning Director Tim Curtis: That is correct. It's in a planned neighborhood center. These planning -- these master plan districts come with it, an expectation with conformance to that site plan and it's very clear that a significant modification, with our zoning administrator would have to come back. And also what's clear is that it's not just a site plan but it's the land use that was on the site plan and, again, one of those which is a gas station which requires council approval of the use permit prior to any DRB.

Mayor Lane: So if there is a major departure from the site plan and frankly with stipulations that might be attached to the conditional use permit of that land use of the service station, in both cases, they would be coming back to us, in fact, if there was some departure. It will come back to us one way or the other, the C.U.P.

Current Planning Director Tim Curtis: Certainly, Mayor. You are making it clear. You are making it clear what those expectations are to the development team tonight.

Mayor Lane: Mr. Washburn, I'm sorry. Do you have a further comment on that?

City Attorney Bruce Washburn: Technically, I'm pretty sure I never out rank a councilmember. I appreciate the opportunity to speak. Thank you. Two things, while Mr. Curtis is correct, generally, I'm very much opposed to trying to amend ordinances on the fly. I think in this particular ordinance, it's not that hard to say, amend the stipulation to of the existing ordinance to include the referenced exhibits which are already attached to this same document. So it would be -- if we can do that in this particular case and I withdraw my usual objection to doing things on the fly.

And I consulted with the counsel for the applicant and they are happy to have those included in the ordinance, the stipulations.

Mayor Lane: I knew it would have some effect on what we had to say. Vice Mayor?

[Time: 03:25:21]

Vice Mayor Smith: Let me ask you, Mr. Curtis, if I may, you said if we wanted to take the additional time, what time is there to just say I want to include attachments 15, 16, 17, and 18? I mean, I just did it.

Current Planning Director Tim Curtis: Mayor, Vice Mayor, I didn't want to be presumptuous that it could be that easy. I didn't know which exhibits the council preferred as attachments to the ordinance and if you reviewed those and taken some time to review those, since this discussion, then that's all the time you need but we just want to make sure that we're carefully deliberating and making sure that exhibits that we are referencing are expected by the council.

Vice Mayor Smith: Thank you. I guess from my point of view, you know, I'm not going to insist on it, but I'm certainly going to say I would be more comfortable in having attachments, 15, 16, 17, and 18 included in the ordinance that we have a motion on the floor for.

Mayor Lane: That's acceptable to the motion maker.

Vice Mayor Smith: I didn't finish telling you why I wanted it.

Mayor Lane: You can talk about it.

Vice Mayor Smith: Thank you very much. I think it would exhibit our continued serious consideration of this. Thank you.

Mayor Lane: Is it possible to general those attachments on the screen? I know our system is in some -- it's in tough shape. So I don't know what our limitations are. And by the rolling of Brian's eyes, I -- the Elmo. Okay.

City Clerk Carolyn Jagger: Your Honor, while they are chewing that up, could we be clear with staff which -- which item we are amending? Is it the resolution which is going to be the first vote or the ordinance which will be the second vote? We just need to be clear for our motion.

Mayor Lane: Understand completely. Which -- which of the items do we need to attach these?

City Attorney Bruce Washburn: It's stipulation 2 to the zoning ordinance. So we are amending -- so we are amending the zoning ordinance.

Mayor Lane: But we are on the first, the general plan amendment. So these would not be attached

to item one?

City Attorney Bruce Washburn: Well, right. I mean, yeah. Both -- both items were covered in the motion.

Mayor Lane: I know but we did separate those at your request.

City Attorney Bruce Washburn: You are voting on the G.P. first.

Mayor Lane: And we are not talking about attaching these to G.P.

City Attorney Bruce Washburn: That's correct.

Mayor Lane: We are talking about the second item?

City Attorney Bruce Washburn: That's correct.

Vice Mayor Smith: But could we see them anyway.

Mayor Lane: I don't know if he's warming up or waiting for us here.

[Time: 03:28:24]

Senior Planner Jesus Murillo: I will start with 15 and flip through them for you and if I go too fast, please tell me to slow down. It will be elevations and then one the attachments I believe is 16 has some of the character materials that they were looking to use.

Mayor Lane: It's upside down. But what is it that we are looking at there?

Senior Planner Jesus Murillo: So that is the floor plan that's attached to the previous elevations that they provided. And this one is going to be -- these are street elevations. You can see what it would look like with the setbacks. Color rendering. Further color rendering. And metric. This is a perspective that would be seen on the inside around the wash location. And then these will be some materials and architectural elements that they had proposed as part of their architectural package. Material samples. And this was part of that, that just showed the entrances to the property. And that concludes that.

Mayor Lane: Vice Mayor.

Vice Mayor Smith: That was 15, 16, 17, 18? The whole package? Thank you very much. So then the question is whether or not -- and I think the motion maker agreed.

Mayor Lane: But right now we are just working on the first item that doesn't include that right now. We will be adding it to the second motion. Okay, Councilwoman Klapp, would you like to speak?

[Time: 03:31:15]

Councilwoman Klapp: Yes, I too as was stated before, was concerned that the staff report and the conversation that was in the report about commercial and the area and how much commercial is still to be built and whether or not there's needed commercial and it seems to me that in thinking about north Scottsdale, that commercial and retail, in particular, is all a product of what's the best location. It's the same with retail. It's location, location, location. And when I look at this project, it appears to me that the project and the applicant stated this, looked all over the place where this might work the best this is actually an extremely good location for this project. And I know that there are -- as was stated by Councilwoman Milhaven, there was a project further to the east, that's floundering, but it's in a bad location. And most people in retail know this -- that they wouldn't want to put their retail business there because it would never survive.

And I drive up and down Pima Road and -- and have also talked to Realtors in the area, who tell me that it's extremely difficult to convince some people to live there because they are so far away from services. And so it seems to me that the corner of Dynamite and Pima is actually an excellent location for another reincarnation in some ways of what's at Pinnacle Peak, but further north, more accessible to the people who live far north, because some of those people now go over to Phoenix in order to do some shopping or buy gas because they don't come down to Pinnacle Peak Road.

So the bottom line is that I think this is a very eco-friendly project for the desert foothills overlay area, and is a -- as was stated in the packet, it's considered to be a demonstration project for what could be built that is friendly to the area, that is good commercial development, that is sensitive to the surrounding area, but there again, also provides some services needed by people that live in the northern part of the city. Some may not want to shop there but my bet is that if this project is in, a lot will go there because it will be an enticing kind of project, different than we have some of the other developments in north Scottsdale. Some are not doing well, because they just mimicked other developments and they put in the same stores and they are not as -- as attractive to people coming in the area. There's no real reason to go to some of the commercial developments in north Scottsdale and that's why they are having a hard time filling in and getting tenants to go in those properties.

It is a very, very small project in the scheme of things. It's a minute project in north Scottsdale that by the time you develop it, it's going to be a couple of acres of projects and the rest is all going to be open space. So it doesn't seem to me that it's not making much of a dent in the commercial -- in any of the commercial usages in north Scottsdale but yet will provide at the intersection of two busy roads services that the people in north Scottsdale do need or even far to the north that don't tend to come down to -- into the city as much as the rest of us.

So bottom line is I will be supporting this. This motion because I believe this is a great project in the right spot that's very sensitive to the -- to the area and to the environment and I believe will be, you know, if everything is as we have tried to make sure it will be, everything looks the way that we have been told and the setbacks are as they said they will be and the materials are going to be used are similar to what we see there, I think it will be a great project for north Scottsdale and actually will

blend in well with the community and will be like what we expected even though the last time we saw this when, you know, the zoning case was a little different. And in the sense of -- that when you put a commercial area in a rural area, you really want it to kind of just go with. You don't even want to see it very much and that's what this will do. At least from the elevation that we just saw the one where you are looking at it from street and you can hardly tell that anything is there. I think this is a great project and I will be supporting it and I congratulate Vern Swaback on a beautiful design for this project. So thank you.

[Time: 03:36:17]

Mayor Lane: Thank you, Councilwoman. Seeing that there's no further requests to speak, if my speaker list here is working properly, I think we are ready to vote which we cannot do here but we will do it by a voice vote, please. All those in favor of item 1, which is the initial or the first of the items on our regular agenda on the general plan, as was stated by Councilwoman Milhaven, please indicate by aye. Those opposed. The motion passes 5-2. Okay.

So next order of business, of course, then would be the item two. Do you want to pick up on that one?

[Time: 03:36:55]

Councilwoman Milhaven: So it would be the rezoning ordinance 4229 to include the stipulation that the site plan would be consistent with attachments 15, 16, 17, and 18.

Mayor Lane: Exactly. The motion has been made.

City Attorney Bruce Washburn: I want to make sure that we are absolutely clear on this. Basically we are including the exhibits 15, 16, 17, and 18, as contained in the council report and shown on the screen, to council as part of the stipulations that are contained in Exhibit 1 to the ordinance.

Councilwoman Milhaven: That's correct.

Councilmember Korte: Second.

Mayor Lane: Would the second like to make any further comment on it? No further comment. The city attorney can clear his -- there. We are done. Okay. Then I think we are ready to vote. All those in favor of the motion on item two as has been stated by Councilwoman Milhaven and seconded by Councilwoman Korte, please indicate by aye. Those opposed with a nay. The motion passed 5-2.

## **ADJOURNMENT**

[Time: 03:38:07]

Mayor Lane: I think that completes our business for this evening. I thank everyone for your participation in this process and thanks for your patience all the way around.

Councilmember Korte: I move to adjourn.

Mayor Lane: We have a motion to adjourn. Do I have a second? I have a second.

Councilmembers: Second.

Mayor Lane: Second. We are adjourned.