



ZONING EXAMINER

REPORT TO MAYOR AND COUNCIL

May 11, 2017

C9 -17- 02 22nd & Houghton PAD
SR to PAD Zoning

SUMMARY OF FINDINGS

This is a request by Linda Morales of the Planning Center on behalf of Twenty-Second Baptist Church of Tucson to rezone 16.3 acres from SR to PAD zoning. The rezoning site is currently owned by the Twenty-Second Baptist Church of Tucson. The preliminary development plan (PDP) proposes a Fry's Food and Drug Store with a building area of 99,918 square feet, and also includes an associated fuel station and kiosk. The fuel station will operate twenty-four hours, seven days a week. The associated kiosk has lesser hours of operation. Additionally, two retail buildings at 12,000 square feet and 6,500 square feet are part of the site.

There is also a 26-foot building height restriction on the anchor building on the property that comes from a March 8, 2016 approved plan amendment to the *Houghton East Neighborhood Plan (HENP)*.

The PDP shows twenty-five percent consolidated open space along the site perimeter with the larger areas along the north and east perimeters to serve as a buffering for adjacent residential uses. Two pedestrian paths from Houghton Road onto the site provide 65 to 70% shade from canopy trees or shade structures. The project site will have two access points onto Houghton Road, and two access points onto 22nd Street.

Policy direction comes from *Plan Tucson* and the *Houghton East Neighborhood Plan*.

PUBLIC HEARING SUMMARY (Minutes Attached)

At the April 27, 2017 hearing, PDS staff reported that there were 38 written approvals and 28 written protests submitted. Staff also said that both the north protest area quadrant was at 23.5% written protest and east protest area quadrant at was at 39.6% written protest. This level of protest will require a supermajority vote by Mayor and Council for approval.

The applicant made a presentation describing the project's features, the land use plan compliance, the outreach to surrounding property owners, and other information concerning the project.

In support of the case, there were about 15 speakers. The testimony included the following comments: even though there is some controversy with this proposal, previous controversial developments in Tucson area are now well regarded; local residents spoke to say they are pleased with such a development near the improved Houghton Road; the size and design are appropriate for this area; this development represents the state of current commercial development; it is a good addition to the local economy; it fits with the development that is

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appropriate on Houghton Road; the design has been modified to accommodate its surroundings and fits into this particular setting; and it is in conformance with the City's land use plans and appropriate.

In opposition of the case, there were about 12 speakers, The testimony included the following comments: the large parking area should, at a minimum, have more trees since it will introduce a heat island into the area; there will be a loss of scenic views from adjoining residences; the area is already saturated with commercial development; the development is not consistent with the commercial use policies of the *Houghton East Neighborhood Plan*; it is not appropriate infill in this area; it will put other small businesses at risk; it does not benefit the surrounding residences but only a few who will make a profit; the use of a 25% open space is deceptive in that the development is not actual neighborhood commercial, the consolidated open space is padded with linear open space along the west and south perimeters and there are breaks in the open space pattern with driveways; the scale of the development is too large; there is substantial local neighborhood opposition to this proposal; it will introduce more noise, lighting and traffic into the area; it will negatively impact views from Saguaro National Park; the Unified Development Code's NC zone should guide the type of neighborhood commercial placed here; this development breaks an agreement made through the adoption of *HENP* with property owners who agreed to annexation in the early 1980's; smaller commercial developments like Trader Joe's are more appropriate; *HENP* was created to protect the County's Buffer Overlay Zone and Saguaro National Park; the original owner wanted this property to be a church or school; this proposal requires an amendment to the *HENP*.

FINDINGS OF FACT

Existing and Surrounding Land Uses -

The rezoning site is vacant SR zoned property comprised of two rectangular parcels totaling about 16.3 acres on the northeast corner of Houghton Road and 22nd Street. To the north and east are RX-1 zoned residential uses, to the south are RX-1 and SR zoned residential uses, and to the west are C-1 are commercial and residential uses. Note the southeast corner is authorized for C-1 commercial uses.

Land Use Plans and Analysis -

Land use policy direction for this area is provided by *Plan Tucson (PT)*, and the *Houghton East Neighborhood Plan (HENP)*.

Plan Tucson's Future Growth Scenario Map - The proposed rezoning is identified in *Plan Tucson's Future Growth Scenario Map* as 'Neighborhoods with Greater Infill Potential' Building Block which refers to neighborhoods that have potential for new development and redevelopment in the next several decades.

These types of infill projects are characterized by providing goods and services needed in daily life such as a variety of housing types, grocery stores and other retail and services.

PT supports infill that provides a more connected, integrated pattern of land use, and while existing neighborhoods are not places identified for more intensive growth, to maintain their

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stability these neighborhoods will require ongoing investment in infrastructure and goods and services.

PT supports commercial development at the intersections of arterials.

Plan Tucson Policies -

PT also includes land use policies LT 28.2.4 and 5 that support community commercial at intersections of arterials such as Houghton Road and 22nd Street. This issue is discussed below.

LT28.2.13 Supports infill and redevelopment projects that reflect sensitivity to site and neighborhood conditions, and that adhere to relevant site and architectural design guidelines.

The PAD document shows that this project is providing 20% consolidated open space supplemented with open linear open space along the perimeter of the site that will total between 25 to 28% at full development. All new development within the PAD District will provide architectural design that is of visual interest consistent with the area's identity, character, and scale. The PAD District will have an internal design review committee including neighborhood participation.

LT28.2.14 Protect established residential neighborhoods by supporting compatible development which may include other residential, mixed-use infill and appropriate nonresidential uses.

The project provides for building setbacks along the north perimeter that range from 113 to 165 feet, and along the east perimeter it is 127 feet.

Per the development standards of the PAD document, delivery trucks are required to automatically turn off after two minutes loading area will be depressed 4-feet and screened with a 9-foot wall for a total screen of 13 feet.

LT28.1.10 Consider special zoning districts, such as Planned Area Development (PAD) to foster mixed-use activity nodes and transit-oriented development areas.

The applicant proposes a PAD Zone to allow a commercial development at the intersection of Houghton Road and 22nd Street. The rezoning and road context encourage a multi-modal environment. The design of the road creates a setting for cars, bike lanes, sidewalks and the potential for bus pullout areas. A PAD allows for a strategy to address the changing urban environment that has occurred in the area.

The Houghton East Neighborhood Plan -

The *HENP* was adopted in 1985 and has been amended twice since then. The most recent 2016 amendment involved allowing a 26-foot building height for commercial development on the subject property and the application materials show a conceptual site plan for a larger anchor building with a larger building footprint that was referred to as neighborhood commercial.

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The *HENP* has three main goals: 1) It attempts to ensure superior design for new developments including open space preservation, drainage and erosion controls and protecting nearby residence; 2) It supports the development of a mix of low density residential supported by neighborhood services while protecting the integrity of neighborhoods; and finally 3) It supports development that protects Saguaro National Park by retaining drainage ways for wildlife movement, enhancing views and buffering rural developments.

In meeting these goals there are neighborhood plan policies that guide development like this proposal. The PDSD staff report as well as the PAD document list polices by number.

Below is a summary of the relevant *HENP* policy topics and the Zoning Examiner's analysis of this proposal.

Non Residential Uses – Per the *HENP* policy as well as *Plan Tucson*, it is clear that the non-residential development may occur at the location of the subject property. The plan defines neighborhood and community commercial as two types of non-residential uses. It further discusses amounts of required open space associate with each, which is discussed below. While the 'neighborhood' version is defined as low intensity commercial and the 'community' version mentions providing for at least a three-mile radius service area, neither gives a clear dimensional indication of size limits of the development.

The commercial development sizes are left to interpretation of the policy. If the policy was specific it would, for example, mention measurable caps on the total building footprint and possibly a measurable cap on the largest building's size.

The only indication of building size from the neighborhood plan for this site is the 2016 amendment that allowed a 26-foot building height. The approval of this 2016 amendment appears from the public hearing background materials to indicate some accommodation for a building that reflects current industry sizes for anchor buildings.

During the April 27, 2017 Zoning Examiner public hearing, there was testimony that reflected on the informal history of grocery stores and shopping centers in Tucson's recent past. A long-time resident said the City once had numerous small corner grocery stores and then the L-shaped shopping centers with a 55 to 65 thousand square-foot anchor building with rows of tenant spaces became popular. Usually, they would have a maximum footprint of about 125 to 150 thousand square feet.

The applicant described the current proposal's configuration to be an evolution from that point, where the L-shape is gone and the single building tenant with multiple services and stations reflects a setting accommodating today's customer preferences. The total building footprint of the proposal still reflects the 125-150 thousand square feet of the earlier shopping centers which would have been a typical size when the plan was adopted in 1985.

Further, the PAD document states the model zone used to create the PAD is C-1 that allows general merchandise sales. The proposed anchor building is 99,918 square feet. The size of a large retail establishment (aka big box) is 100,000 square feet. It was clear from the testimony that those in opposition wanted the total footprint reduced to shopping centers with smaller

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anchor buildings (approximately 10 to 35 thousand square feet) used by such businesses as Trader Joe's, Natural Grocers or Whole Foods.

Development Design Elements – The *HENP* requires new development to ensure superior design. Below are features of the proposal's attempt to respond to this plan goal.

Design Review - The applicant proposes an internal design review committee including neighborhood representation. Architectural design guidelines and review are provided in the PAD document. The proposed darker color palette of desert colors should be beneficial in reducing the building's impact on views into the valley from Saguaro National Park. The Zoning Examiner recommends that a Saguaro National Park representative be invited as an ad hoc, non-voting member to comment on how to protect views and best accommodate wildlife movement and reduce wildlife problems on the subject property.

Landscape Plan - There is a landscape plan that requires substantial shade trees along the south and west borders and within the parking area, i.e. one tree per every four parking spaces. Grading will direct runoff within the property using an underground retention system, and also create water harvesting techniques to capture runoff for landscaping irrigation.

Heat island impact can be reduced by the vegetation on the site and the larger open space areas to the north and east of the development area. While cool pavements were not discussed in the public hearing, the applicant should address whether they are cost prohibitive for this project or are they willing to consider them at least in areas where there will be the most pedestrian traffic on the site. At a minimum, a partial area where the heaviest pedestrian traffic occurs should be designed with cool pavement materials.

Loading Areas - There was discussion of the loading area on the east side of the development. It was clarified that the dock loading times are between 6AM and 12AM only. Further, as noted above all unloading will be inside the loading dock. Regarding back up alarms, the applicant stated at the hearing that the alarms will be turned off since there is no Occupational Safety and Health Administration (OSHA) rule requiring them in this instance.

Lighting – The proposal will comply with all Outdoor Lighting Code provisions. Light trespass from a direct lighting source onto adjoining properties is prohibited. In addition, the applicant noted that the gas station canopy will be designed according to best design practices to reduce light trespass beyond the canopy. He stated that the overall site lighting can be placed on a timer to dim the lights when the shopping center is closed. The lighting at closure will be to the degree that provides security lighting but otherwise reduces the lighting impact on surrounding property.

Building Height – The 2016 plan amendment allows a building height of 26 feet and at the parapet up to 30 feet for only the anchor building. The applicant explained the height mainly accommodates a mezzanine level for administrative functions of the larger building. The anchor building subject to the 2016 building height policy amendment process was proposed to be about 124 thousand square feet.

Consolidated Open Space Within the Development – The two types of commercial uses in the *HENP*, i.e., neighborhood and community, per plan policies require open space to be integrated

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into the development site. The proposal includes 20% but also states that ultimately the amount of open space will be between 25 and 28% natural open space for the entire development's site plan.

The open space is mainly located on the north and east portion of the development that meets the 20% open space of the neighborhood commercial policy. Some grading will occur to build an eight-foot wall to buffer surrounding residential properties from activity, noise and lighting. After wall construction, the disturbed areas will be re-vegetated.

Further, there are portions of linear open space along the west and south perimeters. These linear areas would allow for up to 25% or more open space for the entire development. PDSB has considered these linear areas as adjustments to the flexible nature of PAD development.

It can be a debatable point whether two policies one to require open space and one to encourage a flexible, transit-oriented, PAD development along a major transportation corridor can be used together. During the March 2016 plan amendment, PDSB presented an approval recommendation to Mayor and Council on the building height policy where the application showed a conceptual site plan with a larger anchor building and development area containing 20% open space as a version of neighborhood commercial.

It is the nature of land use plan policies to be advisory and less specific than zoning regulations. It appears the current smaller anchor building and development area as part of the more flexible PAD rezoning, can be considered a reasonable accommodation of balancing policy compliance for open space and development area design.

The distances of the residential properties on the north to buildings within the proposal having varying setbacks including 113, 165 and 150 feet. The distances of the residential properties on the east to the development's edges vary from 100 to 95 feet.

The applicant said, in response to surrounding property owners, this configuration is an attempt to reduce to the maximum amount possible the project's developable area and to increase the natural areas in comparison to early site designs and with the added linear areas to meet the intent of the more restrictive open space policy of the land use plan.

Impact on Saguaro National Park (SNP) - Saguaro National Park is about 1.8 miles from the subject property. A SNP representative said they have no formal position on this rezoning but when asked said they had concerns about wildlife movement, impacts on the genetic pool of wildlife being affected, as well as the impact on existing natural drainage areas.

As noted above, a goal of the HENP is to integrate development with SNP by retaining natural drainage ways for wildlife movement and to enhance views from the Park toward the west. Ideally an SR zoned subdivision or a residential cluster development are the best examples of development types accommodating natural drainage areas and wildlife movement. The 1985 neighborhood plan originally designated this property as non-residential. At the Zoning Examiner public hearing, no one appeared to disagree that commercial development can be considered on this property. Commercial development unlike residential development requires a large graded area to accommodate appropriate siting of buildings and the comprehensive

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handling of on-site drainage. The northern and eastern natural areas attempt, as is practical with commercial development, to allow for wildlife movement onto the property.

There was discussion of a proposed eight-foot wall separating the residential properties from the proposal. The applicant stated that some residents wanted a wall to increase privacy while others wanted a more porous wall that allowed as practical wildlife movement. The Zoning Examiner recommends that the wall have appropriate openings that allow some wildlife movement while still providing security. The use of wrought iron sections was mentioned as a solution along with drainage openings from the residential properties.

It should also be apparent that Houghton Road being a six-lane arterial with a 45 miles per hour speed limit is a major impediment already for westward wildlife movement toward the more urbanized areas beyond both Houghton Road and the rezoning site. The overall Houghton Road project considered fourteen wildlife crossing points in its design about two miles south of the rezoning site from Sky Castle Way on the north to Rita Road on the south (see Regional Transportation Authority Transportation Improvement Program minutes 8-18-09).

It was not discussed at the public hearing, but *SNP* representatives should also be involved with the development of the property regarding potential interaction with wildlife on the property. For example, the site design should consider how refuse is stored and any other site feature that may cause unwanted opportunities for wildlife to interact with staff or the development.

Floodplain Management - The staff report does not indicate that the property is within a 100-year floodplain. However, a comprehensive drainage report will be required as part of the engineering of the development area. The preliminary indication from staff is that runoff detention is not required but runoff retention is required. Further, water harvesting will be required of the entire development area. Complete compliance with the City's floodplain ordinance will be part of the review of the proposed development.

Location at the Intersection of Arterials – *PT* and the *HENP* propose commercial development should be located at the intersection of major arterials. Currently, three sides of the affected intersection are either zoned or rezoned to the C-1 zone. The PAD rezoning states that this proposal is primarily modeled on the C-1 zone. *PT* encourages infill development. During the Zoning Examiner public hearing, there was some dispute about this proposal being infill. The Zoning Examiner agrees that this proposal qualifies as an example of typical suburban infill. The improvements of Houghton Road to a six-lane regional north-south corridor connecting I-10 to the City's east side suggests a greater traffic volume is anticipated at this intersection regardless of the outcome of this particular rezoning.

Transportation –

Houghton Road and 22nd Street are identified as arterials on the *Major Streets & Routes Plan*. Houghton Road is designated as a scenic arterial street with a projected right of way width of 200 feet. The speed limit on Houghton Road is 45 miles per hour that is typical on a major corridor. 22nd Street has a projected width of 150 feet and provides east-west connectivity across Tucson, with an interchange at I-10.

The rezoning site has approximately 600 feet of frontage on Houghton Road and approximately 1200 feet of frontage along 22nd Street. The Houghton Road Corridor is a six-

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lane roadway south of Speedway Boulevard to I-10 (three lanes in each direction) with improved intersections and new signalization, bike lanes, sidewalks and multi-use path along the east side of the corridor, bus pullouts, transit options, and landscaping that maintains the scenic corridor. A bus pullout is planned at the northeast corner of Houghton Road and 22nd Street.

The traffic impact analysis done as part of the rezoning application indicates that Level of Service B (reasonable free flow, maneuvering between lanes is slightly restricted) is the current level of traffic volume and will remain at Level B at full build out of the proposed commercial development.

CONCLUSION

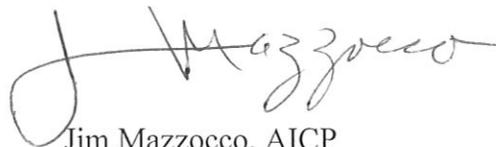
Since the 1985 plan was adopted, the Major Streets and Routes Plan has been implemented with the Houghton Road improvements dedicated in 2014 and it has become a major north-south corridor connecting the City's east side to the mid-town to the north and west along with Interstate 10 to the south. The proposed Planned Area Development rezoning was found by PDS to be in compliance with *Plan Tucson* adopted 2013 and the *HENP* adopted 1985. The combination of a PAD type development and a major corridor create a multi-modal relationship.

The Zoning Examiner agrees that when viewing the two plans' policies together this rezoning is in substantial compliance. The projects' design can be done in a way to limit its impacts regarding noise, lighting, drainage and traffic on surrounding residential property. While a commercial development cannot be as compatible as low-density residential development for wildlife movement, the open space area complies with the 1985 adopted land use plan policy. By reviewing the site and its operations with the *SNP*, it can be made to reduce negative impacts on wildlife movement.

RECOMMENDATION

The Zoning Examiner recommends approval of the PAD rezoning with the attached conditions to be added to the PAD document to ensure the design is both superior and compatible in this location.

Respectfully Submitted,



Jim Mazzocco, AICP
Zoning Examiner

ATTACHMENTS:

Public Hearing Minutes
Zoning Examiner Conditions

Rezoning Case C9-17-02, 22nd & Houghton PAD (Ward 2)
(Continued from April 13, 2017, Public Hearing)
City of Tucson Zoning Examiner Public Hearing - 4/27/2017

1 ZONING MEMBERS PRESENT:

- 2 - Jim Mazzacco, Zoning Examiner
- 3 - John Beall, Planning and Development Services
- 4 - Andie Ochoa, City Recording Clerk

5 *****

6
7 ZONING EXAMINER: I think we're ready here. So, I have
8 it at -- it's about 6:12 p.m. This is April 27th, 2017, Zoning
9 Examiner's Public Hearing.

10 So, good evening. My name is Jim Mazzacco and I am the
11 Zoning Examiner for the City of Tucson. I conduct rezoning
12 hearings on behalf of the Mayor and Council to make findings of
13 fact which I put into a record, along with my recommendation, which
14 I then send on to the Mayor and Council.

15 My report will be based on the evidence submitted to me as part
16 of the rezoning application, as well as on testimony taken tonight.
17 I'd also like to include in the record all documents submitted to
18 my office up to this hearing.

19 A tape recording of this hearing is being made tonight
20 of tonight's testimony by the City Clerk's Office, and, if
21 necessary, a transcript will be prepared.

22 I will prepare a preliminary report and the final report.
23 After I close the hearing, I'll prepare a preliminary report within

1 five working days. I'll prepare the final report two weeks after
2 the close of this public hearing.

3 For those of you who wish to receive a copy of my
4 preliminary report, and you are not already a principal listed on
5 the case, please fill out one of the orange cards on the podium.
6 There's some orange cards you'll see to the side there and there's
7 pens next to it.

8 A copy of the final report will be available from the
9 Planning and Development Services Department, and I'll send that
10 report along to the Mayor and Council. They may consider my
11 recommendations, along with other factors, and they will base their
12 vote on that.

13 At the start of the hearing, I'd like to have John Beall
14 of the Planning and Development Services Department, who is seated
15 here to my right, give a presentation on the case. After that,
16 I'll ask for testimony from the public.

17 Since I cannot have any communication with the parties
18 involved in the case, this is your time to speak. If you wish to
19 speak tonight, I'm going to use these yellow cards and call you
20 up from -- up to the podium and you'll see the podium right there.
21 We prepare to use the taller mic and you can adjust it to your

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1 height. So, please make sure you print your name also on that
2 sign-in sheet there, and you can do that after you speak because
3 I'll -- I'll continue to call up people, and when you're done
4 speaking, just move to the side and fill out your name, and that's
5 mainly for the person who's doing the transcript so they can
6 identify your name in their transcript.

7 So, at this time I'd like to swear those in wishing to
8 speak this evening. And will you please now stand for the oath
9 and raise your hand if you're planning to speak.

10 Do you swear or affirm to tell the truth, the whole, the
11 whole truth and nothing but the truth?

12 (Affirmative responses.)

13 ZONING EXAMINER: Okay. Thank you. So, the first
14 case, and the only case tonight, is C9-17-02, 22nd and Houghton
15 PAD, and we'll ask John to give a brief presentation.

16 MR. BEALL: This is a request to rezone approximately
17 16.3 acres from SR to PAD, P-A-D, Planned Arid Development Zoning.
18 The Preliminary Development Plan proposes a Fry's Food and Drug
19 Store at 99,918 square feet, with an associated fuel station and
20 kiosk. Also proposed are two small retail buildings at 12,000

1 square feet and 6,500 square feet.

2 The proposed project is located at the intersection of
3 two arterials: Houghton Road and 22nd Street. The Houghton East
4 Neighborhood Plan allows nonresidential land uses such as
5 community commercial, neighborhood commercial and office at the
6 northeast corner of Houghton Road and 22nd Street.

7 The proposed project meets the building height
8 restriction of 26 feet, and the consolidated open space requirement
9 for community commercial uses at 25%. Three of the four corners
10 at this intersection are already zoned commercial.

11 The project will provide a common theme and unified
12 design elements throughout the property site. Buildings will be
13 compatible with existing southwestern architectural styles and
14 building materials of adjacent land uses with four-sided archi-
15 -- four-sided architecture.

16 The perimeter of the site will include consol- --
17 substantial consolidated open space areas to provide visual
18 diversity and interest, as well as buffering to the north and east.
19 The project's landscaping along Houghton Road and 22nd Street will
20 be linked as street landscaping improvements to help create a

1 continuous area of undisturbed open space.

2 The project is an appropriate automobile-oriented land
3 use located at the intersection of two arterial roadways which also
4 incorporate context sense of architectural design and landscape
5 buffering.

6 The request to rezone the site to a PAD meets the purpose
7 and intent of a PAD zone and is consistent with the land use
8 direction provided by both Planned Tucson and Houghton East
9 Neighborhood Plan which -- which support nonresidential uses at
10 arterial intersections such as Houghton Road and 22nd Street.

11 The PAD document serves as a rezoning condition for the
12 proposed project; therefore, no additional conditions are
13 recommended for the 22nd and Houghton PAD. The project is an
14 appropriate automobile-oriented land use located at the
15 intersection of two arterial roadways. Approval of the requested
16 PAD zoning is appropriate.

17 As of today, there -- 4/27/17, there have been 38
18 approvals and 28 protests received. Protests by area within 150
19 feet are nine; and out of the 150 feet are five. Protests to the
20 north are 23.5%; to the south is 14.2%; to the east is 39.6%; and

1 to the west is 6.1%.

2 These percentages are important, so if protests are
3 filed from property owners representing 20% or more by area in any
4 quadrant of the area located within 150-foot radius of the parcel
5 on which the zoning is proposed, an affirmative vote of
6 three-quarters of the Mayor and Council will be required to approve
7 the rezoning ordinance.

8 ZONING EXAMINER: John, could you just go through that
9 again? So, to the north it's 23.3% and --

10 MR. BEALL: Correct.

11 ZONING EXAMINER: -- to the east is 20.4%. So, those
12 --

13 MR. BEALL: Or -- no, to -- to the east is 39.6%.

14 ZONING EXAMINER: Oh, I'm sorry.
15 Thirty-nine-point-six-percent. Okay. So, those two would cause
16 a super-majority vote in front of Mayor and Council; is that
17 correct?

18 MR. BEALL: Correct.

19 ZONING EXAMINER: Okay. Thank you. Okay.

20 At this point I'm going to ask the Applicant to come

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1 forward and make a presentation.

2 MS. SILVYN: Mr. Zoning Examiner, my name is Keri
3 Silvyn, with Lazarus, Silvyn & Bangs, 5983 East Grant Road, in the
4 City of Tucson. I'm here representing the developer of the
5 project. What I'd like to do is introduce the team that's here,
6 so if there's a question that they can answer, they will come up
7 and -- and do so.

8 Linda Morales from the Planning Center; Brad Griffith
9 from Brentwood Development; Ryan Gaston with Fry's Food; and Pastor
10 Ashley Evans is here from the 22nd Street Baptist Church of Tucson,
11 which is the property owner.

12 As Staff indicated, the request tonight is for a PAD in
13 conformance with the Houghton East Neighborhood Plan. I've got
14 a couple slides to just locate. I realize everybody here is more
15 than likely very familiar with this corner; it's the northeast
16 corner of 22nd and Houghton. It's vacant, which you can see from
17 this aerial.

18 And this is a zoning map. It's currently zoned SR, and
19 the other three corners are either already unconditionally zoned
20 C1 or as -- for the property on the south, conditionally zoned C1,

1 with an expiration in 2018.

2 The PAD that we're requesting tonight is -- the base
3 zoning is exactly the same as the three other corners, which is
4 C1, which is the -- the lower-intensity neighborhood commercial
5 zoning in the Zoning Code. In fact, the C1 language is it provides
6 for low-intensity commercial and other uses that are compatible
7 with adjacent residential uses.

8 The reason we're asking for the PAD, there are three --
9 three modifications to the C1 that -- that has us asking for the
10 PAD zoning. One of them is -- and I'll show this to you in a minute
11 -- is the outdoor storage. We're asking for a little bit -- the
12 potential for a little bit of outdoor storage restricted in a
13 vestibule -- vestibule area, and I'll show you how that works; it
14 actually feels interior, but it's got a -- there -- it -- it's
15 considered exterior by -- for purposes of the Unified Development
16 Code, so that required the PAD.

17 We wanted to limit some of the uses that are otherwise
18 permitted in C1, and those are listed in the PAD: adult
19 rehabilitation, cemetery, golf course, the large retail
20 establishment, shelter care, wireless towers that are stand-alone,

1 and multifamily, those are all precluded in the PAD.

2 And then we are asking for additional gas pumps. The
3 Unified Development Code restricts C1 to six, and we're requesting
4 nine, which is the industry standard at this point.

5 What I'd like to do for this presentation, after
6 explaining to you the basics of the -- of the zoning, is walk through
7 a little bit of the Houghton East Neighborhood Plan Amendment and
8 the Houghton East Neighborhood Plan, because I know that's been
9 a large -- a large thing called into question related to the --
10 to this request; go through a few of the highlights of the PAD
11 document that you're reviewing this evening; give you a little bit
12 of history on the neighborhood interaction to date; then answer
13 any questions either before or after or both of the -- of the public
14 hearing. And, obviously, we're respectfully requesting a
15 recommendation to approve at the -- at the end of the hearing.

16 So, the Houghton East Neighborhood Plan, it's a
17 two-square-mile Neighborhood Plan; it's bounded by 22nd, Houghton,
18 Speedway, and the Malpomene Tanque Verde Loop. The plan creates
19 and actually respects the one-mile buffer to park systems that I
20 believe the County started, and the City has continued to implement

1 as annexations have occurred. So, over on the east side of the
2 HENP, you'll see the squiggly line as an acknowledgment that that
3 is the edge of the one-mile buffer; so the eastern edge of HENP
4 is the one-mile buffer. This property is almost two miles from
5 the park and is outside of any of those buffer policies.

6 What HENP encourages for this corner -- there's only two
7 corners within this two-mile radius where commercial is
8 encouraged, and it's both the Broadway and Houghton and the 22nd
9 and Houghton. So, the planning for this property very much
10 encourages commercial developments on a corner and they're --
11 they're clearly arterial corners. The property is, as I said,
12 outside of the -- of the buffer.

13 At the time that we were -- well, normally a Neighborhood
14 Plan doesn't require this level of a Site Plan to go through the
15 process. Because we were getting so many questions about what was
16 intended, we went ahead and got ahead of the planning during the
17 -- the Neighborhood Plan Amendment and created this -- this plan,
18 and this was a large part of the discussion points during that
19 process. So, what you'll see is at that time we were proposing
20 124,000-square-foot Fry's, additional retail and gas on the

1 corner, and the open space going around the project to the north
2 -- that's not going to work -- to the north and to the -- to the
3 east.

4 When we originally put in the request for the Houghton
5 East -- East Neighborhood Plan Amendment, there were two requests:
6 one of them was to decrease the 20% open space that applies to
7 neighborhood commercial; and the second was related to the height,
8 to go from 20 feet to 26 feet. I want to make sure I got that right.

9 In working with the Saguaro National Park, with the
10 neighbors and with Staff, there was agreement with Staff that this
11 proposal was considered neighborhood commercial, but there was not
12 going to be support for a reduction in the open space to below 20%,
13 so we removed that request during the process and agreed that when
14 we came back for the zoning we would work to meet the 20% for
15 neighborhood commercial.

16 We did move forward with the height, and Mayor and
17 Council approved that height, again to allow the -- the height of
18 the building to be at 26 feet. And there was some discussion at
19 the meeting, and direction from Council, that that meant the total
20 height was -- was 30 feet.

1 Now, I want to talk to you about where we went. We --
2 there was a lot of discussion at that time. So, this is the current
3 plan that's in the PAD, and what you will see -- and I'm happy to
4 go back and forth as desired and answering questions as well --
5 a significant reduction of the Fry's Store down to 99,918 feet;
6 that's a 20% reduction. It does allow us, obviously, to
7 significantly increase that open space to the north and the east;
8 it also allowed us to increase the open space over against 22nd
9 and Houghton. The retail spaces are a little bit smaller,
10 and the gas is -- is still -- is still there.

11 I already walked you through the three -- the three
12 reasons that we needed the -- that we're requesting the PAD.

13 What I have next are -- this is to show you what the vestibules
14 look like; so that's them closed. They look kind of like garage
15 doors. And what happens is when we do display materials, if we
16 decide to do that, it would look like this. And, again, this is
17 considered outdoor in the Unified Development Code. In the PAD,
18 it is -- it is limited to the -- this vestibule concept. And these
19 are actually the photos that are in the PAD to make sure everybody
20 understands what we're -- what we're talking about.

1 So, back to the -- the Site Plan. One of the questions
2 that's come up in our discussions with some of the neighbors is
3 the service station and why it couldn't be on the corner, and I'll
4 talk about this a little bit more. But you'll see that the access
5 point up to the north -- the bottom line is the service station
6 is there for a very good reason; it's a safety issue for circulation
7 internally and externally onto the arterial roads. So, we have
8 four access points; two along Houghton and two along 22nd Street.
9 The one on the north side of Houghton is -- is almost full turning
10 movements. You have to take a right own, but there is a left in.
11 So, for anybody coming for just gas needs to be able to -- to do
12 most of the turning movements and it's up near the service station.

13 The property right in the -- down on the direct corner
14 is a -- those two entrance points both on Houghton and 22nd Street
15 are right-in/right-out, which is really more appropriate for cars
16 in use where people are coming and staying, either shopping retail
17 or a restaurant, whatever it is that goes there. You don't want
18 the concentrated circulation directly on the corner with limited
19 access to -- to full turning movements or close to full turning
20 movements; so that was done very purposefully for safety and other

1 issues.

2 I do want to point out -- and I'll highlight this again
3 -- the edge of that canopy is over 113 feet from the property line
4 up on the -- upon the north; it's significantly further from any
5 of the homes, and there's a large topographic change as well.

6 One of the other big changes that we made when we went
7 from the HENP plan to this plan, which you can't see in this
8 dimension of a -- of a diagram, is the property is -- is lower than
9 it was when we were putting a larger building on the project. So,
10 I'll show you the cross-sections in a minute, but we're -- we're
11 maintaining the topographic slope that's on the north and the east
12 for that natural area in there, and then we are -- it allows us
13 to keep that vegetation, and then there'll be retaining walls along
14 the edge of the development area which then brings the site down
15 lower. So, as you are on the east and the north side of the
16 property, the elevation doesn't change until you hit really the
17 development area with a significant buffer and a significant amount
18 of vegetation, and then it drops down even further than it did
19 during -- during the HENP process.

20 So, the open space is a big issue that we want to -- we

1 want to talk with you about. I've already mentioned that, as the
2 Applicant, we feel very strongly this -- based on the definitions
3 in the Houghton East Neighborhood Plan, this is neighborhood
4 commercial.

5 The issue that -- the way the definitions work in HENP,
6 the issue is not the size, the issue are the uses and them being
7 neighborhood-type uses. The HENP specifically calls out grocer
8 as a neighborhood-type use. Neighborhood commercial is at 20%
9 open space. Community commercial, which is the other type of
10 commercial that is also encouraged for this site, is at 25%.

11 When we revised the Site Plan and the made the -- the
12 store and the developable area smaller, what it did was it allows
13 us to meet the 20% neighborhood commercial on the north and the
14 east alone, not counting any of the other consolidated open space.
15 So, on the north and the east, we have buffers that are between
16 100 -- or between 40 and 110 feet as a natural landscape buffer,
17 and to the east between 60 and 95 feet; that comprises 20% open
18 space.

19 The only structures that are going to be within that area
20 are the eight-foot wall that was requested on the property line

1 by the neighbors that are on the north and the east. So, any level
2 of disturbance in there would be to put up the wall and it will
3 be revegetated back to an undisturbed situation.

4 On the south and on the west side of the -- of those
5 boundaries where the development area starts, there will be a
6 retaining wall, because, again, we're retaining the -- the natural
7 topography there and bringing the site down in the brown area,
8 rather than starting to bring the site down at the -- at the property
9 lines. Those areas are also some receiving areas for riparian
10 mitigation, so there'll be enhanced natural landscaping in there
11 and they very much meet the definition of consolidated open space
12 within the project.

13 So, the first step is we believe we're neighborhood
14 commercial and that north and that east absolutely meet the
15 definition.

16 Now, to take it a step further, we actually exceed 25%
17 of consolidated open space in the open space that goes all the way
18 around the site. So, along Houghton, we're enhancing the -- by
19 virtue of adding more landscaping adjacent to the Houghton Road
20 Corridor and Greenway and multi-use trail that's

1 in there, and that's ends up creating a 45- to 55-foot corridor
2 along the edge of that property that's a combination of the City
3 of Tucson landscaping and -- and ours. And then on the south, on
4 22nd Street, there's a minimum ten-foot buffer, but it ends up
5 creating a 26- to 55-foot landscaped area.

6 When I tell you that we are exceeding 25%, I am not
7 counting the landscaping in the right-of-way. That is 25% of
8 consolidated open space within our property that goes all the way
9 around the site. The only separation in that open space are the
10 access points to get into the -- to get into the project. So, this
11 project meets the HENP for open space, whether you call it
12 neighborhood commercial or -- or community commercial.

13 To give you a sense, we did some cross-sections as well,
14 so you'll see cross-section A is over on the -- on the east side;
15 cross-section B is up on the north. So, this is cross-section A
16 on the east. You'll see the residence -- resident on the far left.
17 There is an eight-foot wall at the property line. You'll see now
18 what I was describing, which is the natural topography continuing;
19 it does slope down, but that natural vegetation and trees will
20 remain. There will also be some enhancements in that area. The

1 retaining wall is well within -- that's a cross-section at the
2 95-foot width, so 95 feet away is the retaining wall and the --
3 the drop down for the development. So, that is a cross-section
4 in one spot on the east.

5 And then the cross-section for the one spot on the north,
6 it's flipped, so the residence is now on the righthand side of the
7 screen. The wall is on the property line. Again, we did this at
8 a 110-foot width. You see the natural topography, the trees, and
9 then the retaining wall at the beginning of the development, and
10 then the drop in -- the drop in elevation down.

11 This is meant to show the access area, and I think I
12 touched on it already. There's the four access points. The
13 Houghton Road access up to the north is the one that is
14 left-in/right-in and right-out; right-in/right-out only on the
15 southern portion of Houghton; over on 22nd, on the west side, is
16 right-in/right-out; and the far east is full -- full turning
17 movements.

18 We worked very closely with TDOT in coordinating the
19 Houghton Road improvements; as many people know, have -- have
20 relatively recently been completed to make it the larger arterial

1 that it is. We had discussions with the City of Tucson about this
2 project, because the project was in the works, and there were some
3 timing issues in making sure that we locate that left-turn median
4 break at the right time, and we needed the Development Plan to be
5 approved for TDOT to appropriately locate that. So, there's a
6 letter in the PAD, I believe it's the very last page of the PAD,
7 that acknowledges that we can -- we will -- TDOT will work with
8 us on that issue and acknowledge that we came to them early. And,
9 unfortunately, it was a little bit too early, but we could make
10 this work, and they were aware of it at the time that this all was
11 designed.

12 One of the other changes that we made between the HENP
13 and the PAD was working with a local architect. One of the requests
14 from Council is -- they approved the 26-foot roof height -- was
15 to ensure that height with parapets and other things didn't exceed
16 30 feet. And there was -- although it wasn't a condition of the
17 approval, there was a lot of discussion about using local materials
18 and really making sure there was cohesive design. And so you'll
19 see in the PAD that was accomplished in the elevations and there's
20 some design criteria and a Design Review Committee process that

1 does include a neighborhood representative in order to make sure
2 that those design criteria are met.

3 What I want to do now is just touch on -- I'm just kind
4 of leaving this as a placeholder. I'm not really talking to the
5 Power Point anymore. I want to touch a little bit on the
6 neighborhood outreach.

7 This project has been going on for two to three years,
8 depending on when you want to start -- say the start time of the
9 project was. We know there's a group and we've been work -- trying
10 to work with them that are simply opposed to -- to development of
11 the project, and we have been working through the issues and trying
12 to understand them. And I think we're at the point where we are
13 going to agree to disagree as to whether this meets the definitions
14 and the -- and the HENP policies. We've reduced the scale of the
15 development. We modified our HENP request and this rezoning
16 request all to accommodate their concerns.

17 We've also worked with the closest neighbors on the
18 adjacent wall. And you'll see in some of the protest letters
19 there's acknowledgment that there's been a request for an
20 eight-foot wall, and we -- that is in the PAD permits and it requires

1 the -- that eight-foot wall.

2 We held two formal meetings as part of the HENP
3 Amendment. We had nine smaller meetings with groups as part of
4 that HENP Amendment, including some meetings in individual folks'
5 living rooms. We've had at least two meetings with the park during
6 the HENP process as well. There was an open house neighborhood
7 meeting for the rezoning.

8 We had a smaller meeting with -- with a group that's very
9 concerned about HENP compliance at the Ward 2 office just in the
10 last few weeks, and we also presented, at their request, to the
11 Eastside Neighborhood Association that same night. And they were
12 -- they were -- a lot of the people in the Eastside Neighborhood
13 were pleased that we were providing the facts and the information
14 about the PAD because there has been a lot of misinformation out
15 there in the community.

16 We also conducted a door-to-door survey during the HENP
17 process. And, remember, during the HENP process, the Site Plan
18 was -- had substantially more building and less open space. And
19 there were 266 signatures that were part of that record that were
20 offered in support of the project and the redevelopment and a real

1 desire for the -- for the project.

2 I will tell you we have gotten some questions from folks
3 as to why we dropped the square footage at all from 124,000 down
4 to 99,000, because they were really excited about the -- the 99
5 -- or, I'm sorry -- the 124. So, there's -- there's opinions on
6 all sides of this. There's no -- there's no question. And I'm
7 sure you're going to hear a number of them to night.

8 So, as a result of these meetings, what I want to do is
9 summarize for you the changes that have been made over the life
10 of this project. I'm actually highlighting not all of them.

11 The PAD proposal reduced the building square footage of
12 Fry's by 24,000 square feet, which was a 20% reduction.

13 There's been some discussion that that 24 -- that the -- the
14 124,000-square-foot proposal during the HENP was some sort of a
15 tactic to then be able to reduce it as part of the rezoning. That
16 was not the case. Fry's had desired, and would still desire, a
17 124,000-square-foot store. It was done after hearing a lot of the
18 concerns and really wanting to create a project that -- to the
19 extent any development on this property could be acceptable, would
20 be acceptable to the -- to the public and to the surrounding

1 neighbors.

2 We increased the setbacks to the neighbors to the north
3 and to the east. Increased the open space. You saw that in the
4 comparison of the two plans. We revised the architecture, which
5 I already talked about, and the site treatment related to height
6 and related to the -- the elevation and the grade, and the treatment
7 of that open space area retaining the natural grade and having the
8 topography modified at the development -- at the point of
9 development.

10 After the PAD open house, we went even further -- and
11 there's a restriction in the PAD on amplified music and smoking
12 patios, anything within 150 feet of the north or east property
13 boundaries. Obviously, the Fry's is probably not going to be doing
14 that over on the east, but there is that retail opportunity up to
15 the north, so that is a statement in the -- in the PAD.

16 We clarified hours for deliveries and added restrictions
17 on truck idling. So, hours of operation for this entire site are
18 6:00 a.m. to midnight. The only exception to that is the gas pumps
19 will be available to folks who have a credit card who want to pull
20 up and fill up, but there's no active -- the kiosk won't be -- won't

1 be open from that midnight to 6:00 a.m.

2 To answer some of the other questions, we've heard there
3 are security cameras and other things on the site to ensure
4 security, and Fry's can speak to that, Ryan can speak to that if
5 there's questions after the public portion of this.

6 We added a neighborhood representative to the Design
7 Review Committee. I already mentioned the Design Review
8 Committee. Prior to that neighborhood meeting, there wasn't a
9 neighborhood representative on it. We have now added that.

10 At this point, we've I think done a significant amount
11 of work over the last two years. We meet all of the HENP policies.
12 And this proposal and this PAD respects what's going on in the area,
13 respects the fact that Houghton and 22nd are major arterials. HENP
14 encourages commercial community and neighborhood commercial use
15 on the property, respects the Saguaro National Monument distance,
16 which I believe it did when HENP designated this area for
17 commercial, and we've worked closely with Staff, and we've tried
18 to work with some of the neighbors on our -- our opinion of
19 conformance with HENP, which we believe it absolutely conforms.

20 So, at this point, we're happy to answer any questions

1 you might have, or if you want to head into the public hearing first,
2 that's fine with us.

3 ZONING EXAMINER: Okay. Thank you. I have a couple
4 questions. Could you go to the slide with the Conceptual Site
5 Plan?

6 MS. SILVYN: The Conceptual Site Plan that we're --

7 ZONING EXAMINER: Yeah.

8 MS. SILVYN: -- proposing tonight?

9 ZONING EXAMINER: Yeah.

10 MS. SILVYN: That's --

11 ZONING EXAMINER: Oh, that's it?

12 MS. SILVYN: -- up, yeah.

13 ZONING EXAMINER: Okay. That's fine. Okay. So, I'm
14 -- you don't have a number for the gas pump canopy. I'm assuming
15 about 8,000; it looks -- if you just compare the size to the other
16 ones --

17 MS. SILVYN: Oh --

18 ZONING EXAMINER: -- yeah --

19 MS. SILVYN: -- the square --

20 ZONING EXAMINER: -- approximately --

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1 MS. SILVYN: -- footage of the canopy?

2 ZONING EXAMINER: -- approximately.

3 MS. SILVYN: Do you know what the square footage of the
4 canopy is?

5 ZONING EXAMINER: Okay. It's not important. We get to
6 -- what I'm trying to get at is: Overall, when you start adding
7 up all of the building site, it seems to come to around 120 -- mid-
8 to high-120,000 square feet of building area; am I correct in that?

9 MS. SILVYN: It sounds like --

10 MS. MORALES: Yeah.

11 MS. SILVYN: -- if you assume the 8,000 for -- for the
12 -- right? Yeah, it should be 120 to 125,000.

13 ZONING EXAMINER: Okay. So, it's 125 approximately in
14 that area, which, in my experience, is very similar to a
15 neighborhood shopping center size overall. What is different
16 about this one, in my experience and what I think you see a lot
17 around Tucson, is the shape on the anchor kind of configuration
18 of the buildings. In a typical Tucson area shopping center, the
19 anchor would be somewhere between 55 to 65, and the shape of the
20 center would be some type of L shape, and it would usually come

1 out to around 125, 20K, you know, 35, around that amount.

2 I guess my question -- I don't know if it's to you, Ms.
3 Silvyn, or to your real estate team member -- is there something
4 going on in the market where there's this change going on that
5 suddenly a neighborhood -- a typical neighborhood shopping center
6 now looks like this and doesn't look like your typical L-shaped
7 shopping center?

8 MR. GASTON: I'm Ryan Gaston. I'm a real estate manager
9 with Fry's Food and Drug. And so I'd to talk a little bit about
10 our store specifically.

11 The history of grocery stores, you're correct, have
12 always been about 50 to 60,000 square feet. Over the past 20 years,
13 what is inside a grocery store has significantly changed from what
14 was typically built, a 50 to 60,000-square-foot store.

15 Our stores today have all the regular items that you'd
16 find in a grocery store, but on top of that now you have expanded
17 organics. You have expanded items that back then weren't in
18 grocery stores. We also now -- inside of our store have a
19 Starbuck's Coffee kiosk. We have ex- -- expanded deli, We have
20 expanded seafood. We have (inaudible) and bistro. We have a

1 sushi bar. We actually have a wine bar, growler bar. We have
2 expanded -- different items that you can get in bulk. I mean, the
3 -- the shape of a grocery store from where we were at when we're
4 building those 60, 70,000-square-foot stores has significantly
5 changed.

6 This is our actually our food and drug -- what we call
7 concept, the 99,000 store. Our preferred store is a marketplace,
8 which we had originally wanted to build here is 124,000 square feet,
9 and it's completely 100% a grocery store. It does have some
10 expanded household items and it -- it does have some other -- some
11 offerings that a food and drug doesn't have. That's why it's a
12 little bit larger.

13 But, today, our standard grocery store concept is about
14 99,000 square feet. But, truthfully, it's not any different than
15 what we built when it was 50 or 60, it just has a lot more departments
16 now, a lot more offerings, and, frankly, the things that our
17 customers are telling us they want in our stores. So, that's why
18 we have the size of the store.

19 In terms of the layout, as you'll see, the reason why
20 we're have some -- some PAD buildings out into the parking lot is

1 specifically to allow for this open space area that you see. If
2 we did the typical L-shape, we wouldn't get the buffering away from
3 the neighbors that you're seeing today. We would love -- and I'm
4 sure Brad would love -- to build the shopping center in a
5 traditional manner with the L-shape shops and everything you see
6 around it, but then we'd be way too close to the neighbors and it
7 wouldn't allow the large buffering areas that you're seeing in
8 there. So, I think we've done something unique and, frankly, a
9 little bit special to help with the buffering and the proximity
10 concerns that we've been hearing from the neighbors.

11 ZONING EXAMINER: So -- okay. And thank you for your
12 information. And what I'm gathering from that is what's occurring
13 in the 99,000-square-foot building in the past when this -- maybe
14 back in the '80s -- would have been the tenant spaces in that
15 L-shaped building to --

16 MR. GASTON: Oh --

17 ZONING EXAMINER: -- you know, the L-shaped shopping
18 center where you'd have individual shops providing some of those
19 services that you're talking about.

20 MR. GASTON: That's -- that's correct. Some of those

1 services that we now have in our store would've been in the shopping
2 center. But those services we're providing are very limited
3 compared to what Brad's going to be doing -- Brad with development
4 will be doing out on the shops with restaurants and --

5 ZONING EXAMINER: Okay.

6 MR. GASTON: -- drycleaners and things like that.
7 That's correct.

8 ZONING EXAMINER: Okay. Thank you very much.

9 Go ahead.

10 MR. GRIFFITH: I'm Brad Griffith with Brentwood. I
11 think I just want to expand on that. I think you guys have both
12 touched on it, but from our experience -- we've been developing
13 for 25 years, and we see across the United States and Canada the
14 -- a change in retail -- and everything changes -- and this is the
15 new change that we are seeing.

16 And I think to answer your question with regards to --
17 we're used to seeing it a certain way, built in the '80s and the
18 70's and the '90s, and I think a lot of us would see very much a
19 50, 55, 60,000-square-foot grocery store and then, to your point,
20 alongside of it there was generally then a 30,000-square-foot drug

1 store, a Rite-Aid or Walgreens, and they would be in line with them.

2 Now, what's happened is the grocery stores, you know,
3 you -- you won't have a drug store on the site like we used to in
4 the old days, and so the grocery store and the drug store guys are
5 kind of in the same business now, so the grocery store is offering
6 more of the drug store business and -- as well as the groceries
7 like they always did, and now they're also offering new unique
8 specialty items for -- organic foods and whatnot. So, that -- I
9 think that is another reason why we're seeing that grocery stores
10 are getting a little bigger, but it's just changing from being a
11 grocery-store/drug-store kind of anchor development, with your
12 normal shop space guys, to kind of all-in-one now, but you still
13 have your shops facing your restaurants as well outside, yeah.

14 ZONING EXAMINER: Okay. Thank you very much.

15 Ms. Silvyn? So, my understanding is when you present
16 a plan -- a diagram like this in the PAD document, the expectation
17 is you're going to build something very similar to this, maybe with
18 a tweak here and there, you know, based on what happens when you
19 get down to the engineering level; am I correct?

20 MS. SILVYN: Yes, that's correct.

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1 ZONING EXAMINER: Okay.

2 MS. SILVYN: And most of the tweaks will probably occur
3 in the two retail opportunities, as opposed to the -- the Fry's
4 and the -- and the gas. But, yes, that's correct.

5 ZONING EXAMINER: Okay. I was looking through your PAD
6 document, and I was looking at the Development Standards, and I
7 hope I'm not surprising anybody by this question, but I noticed
8 that you have in -- on page 56, F.4, you have a flexible lot
9 development option there. I was just wondering why that was there,
10 because that's a process normally used for residential property
11 and it would radically change what's being shown here, and I was
12 just wondering why it's there.

13 MS. SILVYN: We forgot to take it out, so we're -- accept
14 that as a deletion.

15 MS. MORALES: Yeah. Hi, I'm Linda Morales with the
16 Planning Center. I think our main goal when we were going through
17 the C1 zoning was to remove objectionable uses and --

18 ZONING EXAMINER: Okay.

19 MS. MORALES: -- and this one wasn't a particularly
20 objectionable use. I don't think there would be any issue with

1 -- if we wanted to strike that.

2 ZONING EXAMINER: Okay. I just wanted to make it clear
3 that it seemed like we're going in two directions. We're going
4 toward a commercial development and a residential development, but
5 we weren't showing the residential development.

6 MS. MORALES: Exactly.

7 ZONING EXAMINER: Okay. I wanted to ask a couple
8 questions about the loading area. So -- so, my understanding is
9 the -- you're -- you're saying the trucks will show up maybe four
10 to -- four or five times a day on a busy -- on a busy season or
11 busy time?

12 MR. GASTON: So, the kind of deliveries that we get to
13 our stores are semi-truck trailers that come directly from our
14 distribution center. They'll be delivering on the northern side
15 of the loading area on the back of the building. There's three
16 spots there. So, those deliveries on a busy day, if you get two
17 of those -- two of those is a very busy day. We bring in great
18 big trucks. So, you might get two of those. But you could also
19 get, you know, some of the bread guys, the Coke guys, those kind
20 of guys who come in and would pull in the back as well and make

1 their deliveries. They wouldn't utilize the loading docks.

2 ZONING EXAMINER: So, there's rectangles shown as the
3 loading docks. The side facing the neighborhoods, that's a wall;
4 am I correct? And -- and are you --

5 MR. GASTON: There's a wall -- a wall facing to the east
6 --

7 ZONING EXAMINER: Okay.

8 MR. GASTON: -- yeah. There is no wall facing to the
9 north. That's where the trucks --

10 ZONING EXAMINER: Okay.

11 MR. GASTON: -- come in. So, there's a ten-foot wall,
12 but the loading docks are also depressed four feet.

13 ZONING EXAMINER: Okay.

14 MR. GASTON: And then, also -- so there is no, per se,
15 you know, like the -- the thinking of an outdoor dock where there's
16 -- everything's unloaded outdoors. That's not the case. We have
17 garage doors --

18 ZONING EXAMINER: Okay.

19 MR. GASTON: -- that the truck pulls up to and actually
20 all of the loading and unloading takes place inside the building.

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1 ZONING EXAMINER: Gotcha. Okay. So, what amount of
2 noise should a person anticipate if I'm a resident in one of those
3 properties to the east?

4 MR. GASTON: Very --

5 ZONING EXAMINER: Am I going to know that --

6 MR. GASTON: -- very, very limited. So, the trucks when
7 they come in, turn off. They're not allowed to idle.

8 ZONING EXAMINER: Okay.

9 MR. GASTON: They open the doors. They unload inside
10 our building. They start up and leave. So, we believe -- and --
11 and the purpose of our building design is specifically to keep the
12 noise as limited as possible.

13 ZONING EXAMINER: So, there's backup alarms on --

14 MR. GASTON: Sure. Yeah, it's a --

15 ZONING EXAMINER: -- the vehicles?

16 MR. GASTON: -- a safe- -- it's a safety feature, yeah.

17 ZONING EXAMINER: Would those be on this?

18 MR. GASTON: Yes.

19 ZONING EXAMINER: So those would be heard and --

20 MR. GASTON: Those would be heard when the truck is

1 backing up; it's a required safety feature, yes.

2 ZONING EXAMINER: Okay. I'm -- I have another -- go
3 ahead.

4 MS. SILVYN: I just want to add one more thing. The
5 space where the loading docks are is where the open space distance
6 is closer to the -- that 95 feet.

7 There's an eight-foot -- we all know that walls also
8 mitigate sound. So, there's an eight-foot wall at the property
9 line. There's then the retaining wall and a drop in elevation,
10 and then the loading docks are depressed another four feet, and
11 there's a nine-foot wall there as well. So, it ends up being a
12 13- -- so you got a 13-foot wall from the bottom grade at the loading
13 dock, then the retaining wall, and then the eight-foot wall all
14 following, you know, the -- the elevation as it goes up, so those
15 are really important.

16 When -- when Ryan made the comment about insignificant
17 sound, it's not a semi pulling up right in somebody's backyard.
18 There's a significant distance and those sound barriers that are
19 occurring.

20 ZONING EXAMINER: So you have two walls, basically?

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1 MS. SILVYN: Two walls and -- and this is --
2 MS. MORALES: Three walls.
3 MS. SILVYN: -- three --
4 ZONING EXAMINER: Three.
5 MS. SILVYN: -- yeah, three if you count the retaining
6 wall --
7 ZONING EXAMINER: Okay.
8 MS. SILVYN: -- and this is a spot where a depression
9 might be good.
10 ZONING EXAMINER: Okay. I wanted to talk about the open
11 space. So, you said 20% of the open space is to the -- is a
12 combination of the north --
13 MS. SILVYN: Yes.
14 ZONING EXAMINER: -- and the east?
15 MS. SILVYN: Yeah.
16 ZONING EXAMINER: And then you talked about the west and
17 the south being I assume the 5% remaining of the 25%?
18 MS. SILVYN: Yeah, as shown on the plan, it's actually
19 somewhere between 5 and 8%, But the 25%, which is the 5%, is what
20 HENP requires.

1 ZONING EXAMINER: And then you said it would be enhanced
2 with landscaping in the right-of-way?

3 MS. SILVYN: So, there's already landscaping in the
4 right-of-way that was done when the streets improvements --

5 ZONING EXAMINER: Okay.

6 MS. SILVYN: -- occurred, and so our proposal -- our PAD
7 requires xeriscape landscaping with water harvesting, all natural
8 vegetation, all the stuff that -- that we want to propose, and so
9 it'll be -- you -- as is typical, unless you have the property
10 surveyed and staked where the property line is, once you have this
11 landscaped area, is not going to be evident to users of the -- of
12 the property. Right. It's going to look like one big landscaped
13 area just either north or east of those two rights-of-way.

14 So, when I gave you the buffer distances, 25 to 55, and
15 whatever it was on -- on 22nd, those were distances from edge of
16 curb. If I'm a human being standing there and can't tell where
17 the property line in, the 25% that we were talking about, 25 to
18 28%, is actually on our property. Does that make sense?

19 ZONING EXAMINER: Okay. Sure. I don't know if I
20 should ask you this question or if I should ask John this question.

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1 Houghton Road, it's a fairly new road, it has six lanes; is that
2 correct? And it's -- it's -- there's some construction still going
3 on on Houghton Road?

4 MR. BEALL: That's correct. There's six roads (sic),
5 but the construction is going further south. That's --

6 ZONING EXAMINER: Okay.

7 MR. BEALL: -- already completed, that section.

8 ZONING EXAMINER: Okay. So, for the most part, it's
9 built there where this property is located?

10 MR. BEALL: Correct.

11 ZONING EXAMINER: I don't know if know the answer to this
12 question, either of you, or maybe Ms. Morales does. What -- what's
13 the expected capacity of Houghton Road and -- and in trips, and
14 what's the current average daily trip on Houghton Road?

15 MS. SILVYN: While she's looking that up, I can tell you
16 without those numbers that it -- it's currently, and expected to
17 be, operating at Level of Service B, as in boy.

18 ZONING EXAMINER: Okay. So, Level of Service B is very
19 light. Level of Service F is --

20 MS. SILVYN: In trouble.

1 ZONING EXAMINER: -- you can't -- can't move. Okay.

2 MS. SILVYN: Did you want the ADT now?

3 ZONING EXAMINER: You can do that later if you can't find
4 them now. I just -- you know, we -- we can talk about that maybe
5 when you do the wrap-up. Okay.

6 Let me see if I have anything else here. So, Ms. Silvyn,
7 in -- in your presentation what you're saying is that this meets
8 -- this is in compliance with the Houghton East Neighborhood Plan,
9 which, obviously, the Planning Staff agrees with that. I don't
10 know if I have a question in that. It's meeting the open space.

11 I know what I wanted to ask. I'm going to change the
12 subject a little bit here because one -- well, one of the things
13 to meet in the Neighborhood Plan is to protect the existing
14 residential uses and to be, you know, compatible with them, and
15 we just talked about noise a little bit; talked a little bit about
16 traffic. I wanted to talk a little bit about lighting as -- how
17 it affects the north and the east boundaries. Do you have any
18 information on how lighting is being laid out on those two
19 boundaries?

20 MS. SILVYN: Sure. Basically, the -- the lighting --

1 I mean, obviously, the lighting is going to meet the Outdoor
2 Lighting Code, which the Outdoor Lighting Code, in and of itself,
3 doesn't permit trespass beyond the property lines, requires a
4 shielding, and takes care of a lot of those lighting concerns that
5 you traditionally hear in -- in the zoning -- in a zoning context.

6 The other thing to remember is that from the property
7 line to the developable area, the natural topography slopes, and
8 then the -- the grade is going to go down. So, when you talk about
9 lights and heights of lights, both in parking lots and on the --
10 anywhere on the buildings, those are going to be a lot lower in
11 grade than where the residences are, particularly along the north
12 and further away; right? So, both distance and drop have an effect
13 on what is already conservative lighting when it comes to the
14 Outdoor Lighting Code.

15 I believe we also -- I don't know if there's anything
16 in particular Fry's is --

17 MR. GASTON: So, we -- we -- Fry's prepares the
18 photometrics for the entire shopping center, and we'll be using
19 the Fry's standard photometrics. Those photometrics will be
20 measured in all areas of the parking lot and, per the City's

1 development requirements, will not allow any bleed-off into any
2 of the neighborhood areas next to us. We also use LED lighting
3 that fully conform to all of the dark skies requirements in Tucson.

4 Our lights are also dimmable. So, that's been a
5 neighborhood concern as well. That at night we can actually
6 program those nights to be a little bit -- a little bit darker when
7 nobody's in the parking lot. We have to make sure we maintain the
8 security of the shopping, but those can be programmed to be a little
9 bit dimmable.

10 Also, the service station, specifically, is very -- we
11 are very careful about bleed-off. Our canopy basically shields
12 the lights. We have zero bleed-off from our property. It's all
13 LE- -- LED lighting. Again, we measure the -- those photometrics
14 and make sure that there's no bleed-off or are going to affect the
15 neighbors around us.

16 ZONING EXAMINER: Okay. Thank you.

17 MR. GASTON: Yeah.

18 ZONING EXAMINER: Okay. I think that's all the
19 questions I have. I apologize to the people in the audience and
20 that, as I stated at the beginning, this is -- I'm -- many of you

1 have been living and breathing this for months, maybe years, but
2 it's -- it's still all new to me to a certain degree. So, with
3 that, I'm going to start the public hearing. You can just put that
4 down. We'll -- John, if you could pick up anybody else's, if
5 there's any extras there.

6 How we run these public hearings is, first, I ask those
7 who are in support of the proposal to come forward and speak, and
8 those are opposed to come after them, and then those who are
9 neutral. I'm just going to break that a little bit and I'm going
10 to ask: Is there anybody here from Saguaro National Park who would
11 like to speak?

12 MR. SPRINGER: I'm from the park, but I'm not
13 (Inaudible; no microphone).

14 ZONING EXAMINER: You're not planning to speak? Okay.
15 That's all I wanted to know. Okay.

16 So, then, I will begin with those in support. And is
17 there anybody else who has a card? And -- and if you weren't sworn
18 in at the beginning, tell me when you come up here and I'll swear
19 you in. Okay?

20 So, starting with the support, the first speaker is Jason

1 Wong. And I'm going to give -- I'm going to give you a soft five
2 minutes. I'm going to keep count at five minutes. I'm going to
3 tell you when it's five minutes. And I'll let you finish your
4 thought, but I would like you to, as a courtesy to everyone, try
5 to keep it to five minutes. Thank you. Okay. Mr. Wong.

6 MR. WONG: Thank you, Mr. Mazzacco, for allowing me to
7 address you and the audience tonight.

8 We are a community that -- we are a community that needs
9 to grow, wants to grow, but is afraid to. Back around 1985, when
10 La Paloma Resort was being planned and built, there was a huge
11 outcry from -- people were saying the views would be blocked,
12 there's traffic, noise, there's open space issues, and a lot of
13 supervisors lost their seats because of their approval. So, La
14 Paloma is now a wonderful destination resort that benefits the
15 community.

16 Los Ventana Canyon also had the same issue, another big
17 outcry about, no, we don't need the resort, but it's been a jewel
18 to the community.

19 Recently, we have the La Encantada, again, a huge outcry
20 on the development, but it's a wonderful asset to the greater

1 community again. In fact people say, "Where's Nordstrom?" Well,
2 Nordstrom wanted to come in, but they said no, because of the
3 outcry, but now that it has been built, people are really enjoying
4 the center.

5 When the developers go and plan a center, they don't do
6 it haphazardly. They understand there's a big demand and need.
7 There's hundreds and probably thousands of people in the area who
8 would benefit from the services of this center. So, the demand is
9 there. They're not going to spend tens of millions of dollars to
10 build a center that won't have a need to be served.

11 In regards to the comment of changing grocery store
12 sizes, when I was growing up -- and I think a lot of you remember
13 the Chinese grocery stores -- there was like 60 of them or 80 of
14 them. You could find them on every corner and they served a need,
15 but those grocery stores aren't there anymore. Why? Because they
16 didn't meet the changing demand of the consumer.

17 Remember Goodman's? Goodman's came in and they had a
18 large store. There was Fed Mart -- for those who remember Fed Mart,
19 those who remember Lucky's, those who remember ABCO, A. J. Bayless,
20 those stores were enormous compared to the small Chinese grocery

1 store of maybe, what, 1,500 square feet, maybe 2,000 square feet.
2 Well, they -- those stores aren't there because they didn't meet
3 changing consumer demand. The stores are getting larger now.
4 Like Ryan said, the stores are large.

5 When I -- I'm a pharmacist. For those who don't know
6 it, I used to work for Revco Pharmacy, and Revco was, what, 5,000
7 square feet. It was a huge store back then. Now, you go into a
8 grocery store that's a hundred-plus-thousand square feet, you pick
9 up your prescription drugs and you do everything else because of
10 convenience. There's a great consumer demand for that. So,
11 that's why you have the change in the size of your shopping center.
12 Embrace the change. Tucson needs to grow, but they're afraid to
13 grow. But I'd like to close by saying embrace the change. It's
14 going to be a wonderful development. Thank you.

15 ZONING EXAMINER: Okay. Thank you. Next speaker,
16 David Little.

17 And -- and, Mr. Wong, did you sign your name on that --

18 MR. WONG: Yeah.

19 ZONING EXAMINER: So, Mr. Little, when you're done, sign
20 your name, and then I'll call the next person.

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1 MR. LITTLE: Okay. Yeah, my name is David Little. We
2 live to the south and east of the development, and we've very much
3 looking forward to it and think it will be a great addition to the
4 -- this side of town. Thank you.

5 ZONING EXAMINER: Okay. Didn't even have to start the
6 clock for you. Okay.

7 Pat Johnson.

8 MR. JOHNSON: Pat Johnson. I'm a neighbor two blocks
9 from the site. I'm very much in support of the center. I'm
10 disappointed I'm not going to get a neighborhood Fry's. I was
11 really looking forward to the larger Fry's. It's very -- it's
12 enjoyable to shop in a store that has room and not crowded and that
13 you can enjoy your time there, so I'm disappointed in that.

14 I've lived in the neighborhood for 12 years. I'm a
15 native Tucsonan. As Jason Wong spoke, I remember some of those
16 days in Tucson. And I've seen the no-growth attitudes and -- and
17 I disagree with them all along.

18 I think Houghton Corridor -- I remember 30 years ago when
19 it was talked about. I'm really excited that it's finally started
20 to happen. So, I'm looking forward to this shopping center to

1 be there. I think they've done a great job of listening to the
2 neighborhood and they've done it excellent. And it's -- it's a
3 master development is the way I look at it.

4 When I moved into the neighborhood, I knew something's
5 going to go there. But, you know, I've seen other places in Tucson
6 that don't go through the efforts that Fry's and Brentwood have
7 done that -- you end up with a small store here, another small store
8 there, a couple gas stations, and that's what I would've dreaded
9 that it would've turned into. So, I'm glad to see something fully
10 master planned going to be in this neighborhood. Thank you.

11 ZONING EXAMINER: Okay. Thank you. Next speaker is
12 Ed, Eddie Trisler. Did I pronounce that correctly?

13 MR. TRISLER: Yes. Thank you. You won't need the
14 clock. I'll be brief. Thanks for letting us speak. I live at
15 Houghton and Drexel. I work at Broadway and Wilmot, and so I drive
16 by this property at least twice a day. I do think it'll be great
17 for the community. And I really do enjoy the sushi bar, so thank
18 you.

19 ZONING EXAMINER: Okay. Thank you. Next speaker is
20 Ashley Evans.

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1 PASTOR EVANS: My church tries to get me to be brief
2 every Sunday and they haven't succeeded, but I will be here. My
3 name is Ashley Evans. I'm the pastor at 22nd Street Baptist
4 Church, 6620 East 22nd Street. We're the property owners of the
5 property in question. And I'd like to thank you guys for the
6 opportunity to address this Commission and speak in support of this
7 rezoning.

8 Earlier this year our church celebrated 60 years of being
9 in the location that we're at there between Kolb and Wilmot on 22nd
10 Street. Sixty years of meeting the physical and spiritual needs
11 of our neighborhood. We believe that church is a vital part of
12 a neighborhood; vital part of the community. And, in a time when
13 many churches are closing their doors and moving out of the central
14 part of Tucson and moving to the outskirts where there's growth,
15 we remain committed to this area and in reaching our community.

16 For that reason, we've agreed as a church to sell this
17 property to help us do a better job of not only investing in our
18 own property, but also investing in the community around us. The
19 sale from the funds (sic) of this land will help us continue to
20 be a good presence in that area. Some of the organizations that

1 we work with, like Tierra del Sol, that's our community. That's
2 our neighborhood. We've done several work projects in that area.
3 We've done clean-up projects. We've worked with the pool there,
4 repainted the walls, all of that comes at a cost to us and, you
5 know, the sale of this land will help us continue to do things like
6 that.

7 It'll help us invest in schools like Wheeler Elementary
8 that's in our backyard. We've done teacher encouragement days,
9 cookouts, work projects. We have a very good relationship with
10 them over the past several years, as well as Palo Verde High School.
11 Palo Verde is one of our schools that's a great school that could
12 use some help. We're working with one of the -- one of the people
13 there, the Volunteer Coordinator. There's kids who don't go to
14 school because they don't have tennis shoes. We want to help with
15 stuff like that. There's kids who don't go to school or don't carry
16 their book bags because their book bag is being held together with
17 staples and duct tape. We want to help with stuff like that. And
18 we're going to do the best we can, but we're a small church.

19 And so moving forward with this process, moving forward
20 with the rezoning and allowing it to go to the Mayor and City

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1 Council, will help us continue to be a church that invests in our
2 community. Thank you.

3 ZONING EXAMINER: Thank you. Next speaker is Gary
4 Flor- -- Florian. The last letter I couldn't read, but I got most
5 of it, enough to get you up here, yeah.

6 MR. FLORIAN: Thank you for allowing me to address --
7 I'm in the landscape business and --

8 ZONING EXAMINER: Would you state your name?

9 MR. FLORIAN: Gary Florian.

10 ZONING EXAMINER: Florian.

11 MR. FLORIAN: Florian --

12 ZONING EXAMINER: Okay.

13 MR. FLORIAN: -- yeah. And I work in the community. I
14 -- I make my living in development, and the City needs development
15 and it's what keeps our economy going. And I appreciate you
16 approving this. That our economy can continue growing and allow
17 the -- Tucson to continue growing and generating revenue for all
18 of us in the future. And I appreciate you considering this in a
19 positive manner. Thank you.

20 ZONING EXAMINER: Okay. Thank you. Cindy Florian.

1 You -- you have better handwriting than he does.

2 MS. FLORIAN: I'm Cindy Florian, and I wholeheartedly
3 support this. And I also wanted to say I appreciate the developer
4 being so willing to compromise and make changes and considering
5 the neighbors. I mean, that's not something we see a lot in the
6 neighborhood that I live in, and I just appreciate that.

7 ZONING EXAMINER: Okay. Thank you. Jack Hoffman.

8 MR. HOFFMAN: Thank you for allowing me to speak. My
9 name is Jack Hoffman. I live approximately two miles southeast
10 of this property, one mile directly west of the gate to Saguaro
11 National Monument. I've lived there for 13 years. I lived just
12 north of there, a quarter of a mile on Quail Trail for 28 years.

13 I've been in that community, and this really is great
14 to me to have this kind of development come, because I feel like,
15 when you're on the corner of a major street, two major streets,
16 it's going to get developed. And this company to me is kind of
17 bent over backwards to really accommodate and make it the best that
18 it could be, rather than what could possibly be, and think it'd
19 just be a great addition to our community.

20 ZONING EXAMINER: Thank you. Craig Finfrock.

1 MR. FINFROCK: Thank you, Jim. My name is Craig
2 Finfrock and you pronounced that pretty well.

3 ZONING EXAMINER: Okay. Thank you.

4 MR. FINFROCK: I believe that this project is totally
5 appropriate for -- land use for the intersection. Houghton is a
6 six-lane, major corridor. Twenty-second Street is four-lane --
7 or planned for four-lane in all areas. And this is -- this project
8 is consistent with the Land Use Plan and there's the -- it's a very
9 thoughtful project. The developer has compromised to -- and --
10 and Fry's bent over backwards, met with the neighbors numerous
11 times, gone through a very lengthy process to get here, and -- and
12 the result is a great shopping center. It's a shopping center that
13 meets with the times, and it's one that the community and the area
14 neighbors will be proud of and they will enjoy it.

15 I've been in the shopping center business for 33 years
16 in Tucson and I've gone through numerous rezonings like this, and
17 this one -- there's probably a few more people objecting -- but,
18 in the end, everybody's happy with it and -- and the people --
19 everybody enjoys going here. It's convenient. It's a great place
20 to take your family on Sundays, or out on Friday nights when your

1 friends come over, to a nice restaurant.

2 I lease a shopping center down the street from this that
3 Brentwood owns, which is at Broadway and Houghton. I live in the
4 area. I live right down Houghton Road at Tanque Verde. I have
5 lots of friends in the area. They're very excited about the new
6 restaurants that are coming to the area. The new luxury movie
7 theater that coming to the area. I mean, it's going to be a great
8 area -- part of town, and a lot like the Tanque Verde Valley, which
9 is a wonderful place. This is -- it's the same kind of an area.
10 It's one of Tucson's nicest areas to live. And part of what makes
11 a nice area to live is have great shopping, great restaurants, and
12 it's -- it's really needed.

13 Fry's and -- and the development will create lots of jobs
14 for Tucson. And Tucson needs new jobs. It will create lots of
15 sales tax revenue. Tucson needs sales tax revenue. And it will
16 help -- one of Tucson's most responsible employers, Kroger, remain
17 competitive and be a successful operator and employer in our area.
18 And I strongly support this project and hope you will, too.

19 Thank you for giving me the time to speak tonight.

20 ZONING EXAMINER: Okay. Thank you. Grace

1 Gegenheimer.

2 MS. GEGENHEIMER: Thank you, Mr. Mazzacco. My name is
3 Grace Gegenheimer and I'm with the Tucson Metro Chamber. The
4 Chamber represents 1,500 businesses with a total of nearly 165,000
5 employees in the metro area. I'm here today to speak in support
6 of the approval of the rezoning for the Fry's project on 22nd Street
7 and Houghton Road.

8 The Chamber has been following this case since the
9 Houghton East Neighborhood Plan Amendment process began. The
10 owners and developers of this project have gone above and beyond
11 in working with the neighbors, Saguaro National Park, City Staff
12 and Council offices to balance all interests and ensure -- ensure
13 conformance with all adopted policies.

14 Houghton Road and 22nd Street are both major arterials
15 and are ideal for commercial. Significant public resources have
16 been used to create Houghton as a major north/south corridor and
17 commercial services are desperately needed in this area of the city
18 to serve the growing population on the east side. The proposed
19 Fry's project will provide amenities, services, and quality
20 development that is needed for our neighborhoods.

1 On a personal note, I grew up on the far east side of
2 Tucson and have lived at Broadway and Houghton for nearly all of
3 my 23 years on the same property that my grandparents bought in
4 the 1940s. I have seen the growth and development of that side
5 of town and have watched as businesses come and go. With this in
6 mind, I, and many others, see the clear need for more convenient
7 commercial in the area. The addition of the proposed Fry's would
8 reduce travel time, not only for Ward 2 and Ward 4 residents, but
9 for tourists and visitors of Tucson as well. This project will
10 create a variety of good jobs and will support the growth of our
11 local economy. Therefore, the Tucson Metro Chamber supports the
12 approval of the rezoning and strongly encourages others to do the
13 same. Thank you.

14 ZONING EXAMINER: Okay. Thank you very much. And
15 could you sign the list there, Grace? Thank you.

16 Next speaker is Martin Stickley.

17 MR. STICKLEY: Mr. Mazzacco, thank you for allowing me
18 to speak this evening.

19 ZONING EXAMINER: Could you say your name for -- for the
20 person who's doing the transcript?

1 MR. STICKLEY: Yeah, Martin Stickley. I reside at 601
2 North Lazy J Way; it's near the intersection of Speedway and
3 Houghton.

4 We built our house in 1993 at that location within the
5 Houghton East Neighborhood Plan inside that southeast corner of
6 Speedway and Houghton. At that time when I'd go to work each
7 morning, I would drive up to Broadway and Houghton and there was
8 a four-way stop sign, and I said to myself, "I wonder how long it'll
9 be before there's a traffic signal installed here?" And it wasn't
10 very long at all.

11 You fast-forward 20 years, as has been mentioned,
12 there's three lanes of travel in each direction on Houghton,
13 sidewalks, artwork, beautiful landscaping very well done. And
14 Houghton now is a scenic route and it's commonly referred to as
15 the Houghton Corridor with all these beautiful elements on the way.
16 So, it has shops, stores. It even has a Sun Tran Bus transfer hub
17 that was recently put in. It's a very developed artery in the City.
18 And, as Craig Finfrock mentioned, there's a movie theater planned
19 down -- down the road at Broadway and Houghton.

20 It seems to me that Fry's would be a rather great addition

1 to the neighborhood, to a neighborhood that has been typically
2 underserved for -- for a long time. And my wife and I
3 wholeheartedly support and welcome Fry's to the fabric of the
4 neighborhood. Thank you.

5 ZONING EXAMINER: Okay. Thank you. Okay. Alice J.
6 Templeton.

7 MS. TEMPLETON: Good evening, Mr. Mazzacco. I, too, am
8 a native Tucsonan. I lived in the City of Tucson my entire life.
9 I've seen the negative impact and the long-term -- to the long-term
10 health of our community when we turn away good partners and
11 investment.

12 I, too, will be very short. And I will end with saying
13 Fry -- Fry's efforts to date show that they will be a good neighbor
14 and that they have good faith, and I urge you to support them.
15 Thank you.

16 ZONING EXAMINER: Thank you. Okay. Bill Kelley.

17 MR. KELLEY: Good evening. I'm Bill Kelley. I have
18 been in the development industry for 30-plus years myself and I
19 am very active in economic development here in Tucson, and I really
20 appreciate coming here to speak on behalf of the business and

1 development community, endorsing a project like this.

2 I'm very impressed with the efforts that have been put
3 forth to buffer this development with the neighborhood. I think
4 that the sales tax -- excuse me -- the -- the tax that's really
5 going to be beneficial is the real estate tax that's the -- that's
6 going to the schools and to the County for -- for the rest of the
7 community. And I hearted- -- I strongly endorse this project.
8 Thank you.

9 ZONING EXAMINER: Thank you. Jim Marian.

10 MR. MARIAN: Mr. Mazzacco, I've been a business owner
11 here on the east side of Tucson for over 25 years and I'm here to
12 give my strong support for this development, and I hope you'll make
13 a recommendation to Mayor -- Mayor and Council as well.

14 I echo everything that's been said, but the one thing
15 I will add: I'm very -- I get very frustrated as a citizen and
16 a business person when this entire community and the City and the
17 Staff work year after year after year and compromise and put
18 together area plans and zoning recommendations, and we get a
19 quality developer in and it still takes forever when they listen
20 and conform to what we took years and years to decide to do.

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1 I commend them for being so patient and hanging in there
2 with their presence -- with their project and I wish them success,
3 and I hope you approve the project.

4 ZONING EXAMINER: Okay. Thank you. Sean Lippert.

5 ASSOCIATE PASTOR LIPPERT: I was not sworn in.

6 ZONING EXAMINER: Okay. Could you raise your hand? Do
7 you swear or affirm to tell the truth, the whole truth, and nothing
8 but the truth?

9 ASSOCIATE PASTOR LIPPERT: I do.

10 ZONING EXAMINER: Okay. Thank you.

11 ASSOCIATE PASTOR LIPPERT: My name is Sean Lippert.
12 I'm the Associate Pastor at 22nd Street Baptist Church. And I just
13 want to echo what Pastor Ashley has already said and -- and just
14 go on record that I'm in support of rezoning this property.

15 ZONING EXAMINER: Okay. Thank you. Gina Lippert.
16 And you also have better handwriting than --

17 MS. LIPPERT: I was not sworn in.

18 ZONING EXAMINER: Oh, okay. Do you swear to tell the
19 truth, the whole truth and nothing but the truth?

20 MS. LIPPERT: Yes.

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1 ZONING EXAMINER: Thank you.

2 MS. LIPPERT: I'm Gina Lippert, and I'm a member of 22nd
3 Street Baptist Church. I also am in support of this and echo
4 everything that my pastor has said. Thank you.

5 ZONING EXAMINER: Ted Buell (ph.).

6 MR. BUELL: I was not sworn in either.

7 ZONING EXAMINER: Okay. Do you swear or affirm to tell
8 the truth, the whole truth and nothing but the truth?

9 MR. BUELL: Yes, I do.

10 ZONING EXAMINER: Okay. Thank you.

11 MR. BUELL: Actually, 83 years ago I was born in this
12 state and I came to Tucson in 1964 and I have watched the city grow,
13 and there's a lot of things that have really made Tucson a great
14 place to be in. And I am a member of 22nd Street Baptist Church.

15 I have a Fry's one mile east of my house and a half mile
16 -- I mean a mile north and a half mile east, and another Fry's a
17 half mile south, and they're good neighbors. And I'm excited about
18 this project. I urge you to approve it because I think it would
19 be a great addition to the City of Tucson.

20 ZONING EXAMINER: Okay. Thank you very much.

1 So, at this point is there anybody else who is in support
2 of this project who hasn't spoken yet and would like to speak?
3 Okay. Thank you.

4 So, now, I'm going to call -- ask those who are opposed
5 to the project to come forward and speak and I'll call you one at
6 a time. So, the first person I have here is Ken Scoville.

7 MR. SCOVILLE: Hello. Good evening. I haven't been
8 sworn in yet.

9 ZONING EXAMINER: Okay. Do you swear or affirm to tell
10 the truth, the whole truth and nothing but the truth?

11 MR. SCOVILLE: I do.

12 ZONING EXAMINER: Okay. Thank you.

13 MR. SCOVILLE: I -- I do not live in the area. I've just
14 always been sort of an advocate for trying to see better development
15 and things done in a better way in Tucson. And I have to say that
16 I've been a person that knows a little bit about Tucson history.
17 I've enjoyed some of the revisionists' perspectives on Tucson's
18 past.

19 One thing -- one thing that I have to talk about that
20 -- and you can go back to 1920 -- the no growth was always a wedge

1 issue; that they wanted to make sure that they got them against
2 us, so a wedge issue. And if you drive around a lot of parts of
3 Tucson, especially the commercial strip centers, all people wanted
4 was some landscape, a little better architecture design, and a
5 little bit more respect for the neighbors, which usually the
6 developers never gave, and that's just been part of the history
7 of Tucson. I think because people show up, because it takes a long
8 time, that you actually see some better developments coming into
9 Tucson.

10 And then I also wanted to show up because Keri Silvyn
11 always does a virtuoso performance of what she does.

12 And I like the way the head counts is and we made sure we had
13 enough people here. I would criticize that there are many -- too
14 many people in the development industry. I would've gotten a few
15 more neighbors or people -- to make it seem a little bit more --
16 more balanced on this. We all have a vested interest and I assume
17 this.

18 Part of the reason also I turned up this evening is I
19 remember the first time this is present -- presented and they talked
20 about the height, the necessary height of the building, and I came

1 in a tiny bit late, but I rushed down here as quick as I could from
2 actually another meeting. But I wanted to know if the second
3 story, interior second story, is in place where they were going
4 to have it as a training center. I was always suspicious that they
5 just needed to make sure they had the height of the supermarket
6 because, obviously, if you go into a Whole Foods or somewhere, they
7 need to be competitive. You go into the Whole Foods -- and the
8 Casas Adobes one is a good example -- the height is unbelievable.
9 I wouldn't want to make the air conditioning bills. But, again,
10 sustainability has not been much of a concern in Tucson. So, I
11 hope to find out tonight whether that training second -- center
12 on the second store (sic) was still there or if it was a Trojan
13 horse.

14 And, again, I wanted to look at things more closely,
15 detail -- and some of the details are a little bit better. We
16 always need more landscape in the parking lot, a better shade
17 canopy. Whatever trees they have, they ought to double the trees.

18 And then another thing. I'm always hoping -- and
19 someday this will happen when Tucson's on potty water -- is that
20 we need water harvesting onsite. All commercial developments

1 should have water harvesting onsite and not take any potable water
2 for that situation.

3 And another thing is that they're bringing a new heat
4 island, and that's just an inevitable situation. There are some
5 developments -- and I travel around the country and I'm very
6 interested in national parks and conservation, preservation --
7 where you see adaptive reuse, a change in the parking lots. I don't
8 expect that in Tucson yet. But maybe a different color than the
9 black asphalt that would dress it up a little better and maybe have
10 a little bit better on the heat sink.

11 And details and details -- and it's just amazing -- that
12 wall, that nice retaining wall, the high wall -- and I do think
13 what they did with the landscaping, the sit-down, is better, but
14 is it going to be that same old CMU block and they paint it white
15 and you have to stare at that the next years? Or are they going
16 to spend some money and actually do a stone, detailed and -- and
17 nice fence around it so you look out and you actually see something
18 aesthetically pleasing versus this?

19 And -- and I think, in general -- I think I've seen more
20 progress with the development industry, but it's only because of

1 your involvement and people getting organized, because their
2 bottom line is we'll do it as cheap and fast as possible.

3 So, I want to applaud all your participation. And I was
4 thrilled when I come down and I saw it's hard to get a parking space
5 real close. So, I want to applaud everybody that showed up here
6 tonight. This is what you're supposed to do in a representative
7 democracy. And -- and, again, we have two sides, But everybody
8 wants to have Tucson look as best as possible.

9 And also thinking about our national park, and the reason
10 I'm concerned more about the height is the view shed. When people
11 are up at the top of the crest on -- on the cactus trail are they
12 going to see that Fry's? And if we could get the height down a
13 little bit more and some of those other things, it might be a much
14 better development. So, thank you very much.

15 ZONING EXAMINER: Okay. Thank you. He brought up an
16 interesting point. No, you can sit down. This actually -- we have
17 a parking garage out here underground. That's the El Presidio
18 Parking Garage. What time does that close, Andre?

19 ANDRE: Eight o'clock.

20 ZONING EXAMINER: Eight o'clock. So, if you're parked

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1 in that garage, you might want to be looking at moving your car,
2 because we've had folks who left here, found the garage, parked,
3 and they were out of luck. Okay.

4 Next speaker is Daniel Porzio. And while you're
5 welcome, like Mr. Scoville, to talk to everybody else other than
6 me, this is actually about talking to me.

7 MR. PORZIO: I -- I will give you the -- the respect that
8 you deserve.

9 ZONING EXAMINER: Well, I'm not -- I'm not suggesting
10 Mr. Scoville wasn't, but -- (laughter)

11 MR. SCOVILLE: I --

12 MR. PORZIO: I --

13 MR. SCOVILLE: -- actually know him and I don't think
14 he has disrespectful, no, I (inaudible; no microphone).

15 ZONING EXAMINER: No, no, no, I'm just kidding. I'm --

16 MR. PORZIO: I would -- I would like to impose upon your
17 generosity, since Counselor Silvyn gave such a broad-based
18 presentation. I'd like a little bit of leeway, if you please, on
19 time.

20 ZONING EXAMINER: Okay. Like I said, I'm giving kind

1 of a soft five. When five comes around, I'll let you know.

2 MR. PORZIO: Okay. Well, I'm going to talk fast.
3 Let's start with neighborhood commercial, low-intensity
4 commercial uses serving neighborhood retail and service needs. As
5 I said, I'm going to go fast. This rezoning request, it says here
6 on this -- on this piece of paper, which is from the Planning Center,
7 the zoning request is in keeping with the amendment and the policies
8 of the HENP. I'll let that stand on its own.

9 Let's go to Planned Tucson. This is a document --
10 Section 2 says, "The various City officers and employees are
11 authorized and directed to perform all acts necessary or desirable
12 to give effect to this resolution." And the resolution is Planned
13 Tucson.

14 The specific plan designation, meaning HENP, takes
15 precedence over any guidance that may be provided anywhere else.
16 These are specific sections of Planned Tucson. Preserve and
17 strengthen the distinctive physical characteristic and identity
18 of individual neighborhoods in commercial districts in the
19 community.

20 Protect and improve the quality of the air by reducing

1 sources of pollution.

2 Support community commercial and office uses located at
3 the intersections of arterial streets, taking into consideration
4 traffic safety and congestion issues. It would seem to me we're
5 adding a significant amount of congestion with that -- with the
6 store. Support residentially-scaled neighborhood commercial and
7 office uses along streets. Support environmentally
8 sensitive design that protects the integrity of existing
9 neighborhoods, complements adjacent land uses, enhances the
10 overall function and visual quality of the street, adjacent
11 properties in the community.

12 If I'm going too fast, let me know. Support the
13 limitation -- the limitation of drive-through facilities and
14 auto-related uses.

15 Develop projects that reflect sensitivity to site and
16 neighborhood conditions and adhere to relevant site and
17 architectural design guidelines.

18 I knew I brought too much information. Support
19 conservation and efficient water use in an effort to minimize the
20 need for new water and water sources. More on that in a minute.

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1 This is a letter from February 2nd, 2017, where the
2 Planning Center is responding to the Tucson Department of
3 Transportation's five-year moratorium on curb cutting and saw
4 cutting the pavement and the curbs. I just came upon this
5 information recently. Language was added to page 64, which is the
6 redlined version of the PAD recognizing the five-year moratorium
7 placed on Houghton Road and 22nd Street.

8 Additionally, a letter from Frederick Felix, who's the
9 City Engineer. It's an Appendix D, to reference permission
10 granted to the developer to make improvements prior to the
11 expiration of the five-year moratorium. The original letter,
12 which was sent to Craig, is dated September 11th, 2015. The first
13 time I heard of this was a couple of weeks ago. How do we have
14 a brand new road and now we're going to carve it up like a
15 Thanksgiving turkey? Okay.

16 Sixteen-point-three acres. The major issue in this
17 case is whether the requested zoning is in compliance with the
18 Houghton East Neighborhood Plan, and whether the proposed
19 commercial product is compatible land use at this location. I
20 submit to you it is not. Okay.

1 We already talked about the fuel station.

2 Planned Tucson supports infill. This is not an infill
3 project that provides a more connected integrated pattern of land
4 use. Does not apply in this case, with all due respect, sir.

5 The PAD -- okay. We can go by that one.

6 Delivery trucks are to -- required to automatically turn
7 off after two minutes. An idling truck is prohibited within 300
8 feet of residential properties. We can debate all of that.

9 Trucks will not be left idling between 6:00 P and 6:00 A. Okay.

10 Let's go to the PAD restricts the building height.
11 Okay. We amended the HENP for the building height. Then we
12 immediately gallop from SR1 through commercial through the PAD and
13 now here we are. The HENP allows neighborhood

14 commercial/community commercial and office at the northeast
15 corner. The proposed project is a commercial shopping center. It
16 is inconsistent with the low-intensity use as outlined in the HENP.

17 Planned Tucson supports infill projects that request -- that
18 reflect sensitivity to the site and the neighborhood conditions.
19 This project does not.

20 Then we get down here and we're looking at this project

1 is proposing a hybrid -- a hybrid commercial development of
2 community and neighborhood commercial uses. So, is it -- is it
3 a hybrid? Is it commercial? Is it neighborhood commercial?

4 Conclusion. This is at the end. Request to rezone site
5 to a PAD meets the purpose and intent of a PAD zone and is consistent
6 with the land use direction provided by Planned Tucson, et cetera,
7 et cetera, et cetera. No, it is not.

8 ZONING EXAMINER: Okay.

9 MR. PORZIO: It does not.

10 A couple more things --

11 ZONING EXAMINER: So -- so --

12 MR. PORZIO: -- and I'm done.

13 ZONING EXAMINER: -- yeah, start -- start kind of --

14 MR. PORZIO: I will wrap it up. Uniform Development
15 Code Section 4.8.9, large retail businesses are not permitted. Food
16 and beverage sales not permitted. General merchandise not
17 permitted. Drive-through service are prohibited. All land use
18 activities 7A to 10P.

19 Finally, this is the last page. I'm going to read it.
20 So, the question before the City is whether, based on credible

1 evidence placed before it, the proposed rezoning would result in
2 a development that is in basic harmony with the HENP. The credible
3 facts that are going to be presented in front of the City do not
4 support the conclusion that rezoning would be in harmony with the
5 HENP. The HENP requires that developments at the project site be
6 neighborhood commercial or community commercial, 20% and 25%,
7 respectively.

8 I'm going to skip down. These are the actual adopted
9 policies and the rules of the City. For us to disregard the HENP
10 -- to disregard -- disregard sections of the Unified Development
11 Code, the City actively seeks an alternative rationalization with
12 this development in there. We can't just make up the rules as we
13 go. The HENP is the HENP, and the UDC is the UDC.

14 And that -- finally, the last couple of sentences.
15 Competing definitions that don't support the designations of the
16 UDC create a contradiction for the City that the City must resolve
17 before they can arrive at a conclusion.

18 ZONING EXAMINER: Okay. Can you start sum- -- are you
19 done?

20 MR. PORZIO: Last sentence.

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1 ZONING EXAMINER: Okay.

2 MR. PORZIO: Any -- any changes in the HENP, and any
3 other sections of the Code, would not be credible in application
4 to approving this zoning request. Thank you.

5 ZONING EXAMINER: Okay. Thank you. And for the
6 transcriber, when he's saying "HEN-P," he means H-E-N-P, which is
7 the --

8 MR. PORZIO: Houghton East.

9 ZONING EXAMINER: -- abbreviation for the Houghton East
10 Neighborhood Plan. Thank you. Okay.

11 The next speaker is Steve Harrington.

12 MR. HARRINGTON: Good evening. My name is Steve
13 Harrington. I've been a Tucson resident for over 30 years. And
14 I am not representing anyone for a fee.

15 As a member of the Houghton East Neighborhood Coalition,
16 I help develop and maintain the group's website, which is
17 savehoughtoneast.com. That's savehoughtoneast -- all one word --
18 .com. The purpose of our website is to educate Tucsonans about
19 why we think the construction of a Fry's big-box store at 22nd and
20 Houghton Road is a very bad idea, not only for Saguaro National

1 Park and surrounding neighborhoods, but for Tucson as a whole.

2 In addition to the potentially catastrophic impact this
3 kind of development can have on Saguaro National Park, it can also
4 have a devastating impact on local businesses who get many of their
5 customers from the six anchor food stores currently serving the
6 area. If one or more of these anchor food stores is driven out
7 of business by a Fry's Marketplace Super Store, it will put these
8 small businesses at risk as well. The risk is very real,
9 considering that three anchor food stores recently went out of
10 business in the same area. This begs the question of how
11 -- how the proposed Fry's store would benefit our community at all.
12 From my perspective, the only beneficiaries would be the seller
13 of the property, the developer, Fry's itself, if the store manages
14 to survive, and maybe a few local residents who put shopping
15 convenience, in quotes, at the very top of their priority list.
16 Everyone else, including the City of Tucson, loses big time.

17 Looking beyond just the local impact, it appears that
18 the City of Tucson wants to aggressively develop the Houghton
19 Corridor to mirror the haphazard development of Oracle Road on
20 Tucson's westside. In my view, this goes completely against

1 Planned Tucson 2013's strategy to strengthen the core of the city
2 by encouraging growth to occur organically from the center of the
3 city out.

4 To the casual observer, it would appear that Tucson has
5 developed a bad case of Phoenix envy. And Phoenix, of course,
6 already has a well-documented case of LA envy. Suffice it to say
7 that the last thing we want is to become another Phoenix where every
8 street corner looks like every other street corner.

9 I'll conclude my remarks by saying that I think it's
10 critically important for the City of Tucson to carefully consider
11 its short-term versus long-term goals. In the short term, any kind
12 of growth may temporarily increase the City's tax revenues and help
13 to stop the bleeding from its 2016 \$25 million budget deficit.
14 Over the longer term, however, ill-considered, haphazard growth
15 can quickly lead to death by a thousand cuts. One of our city's
16 primary revenues generates -- oh, excuse me. Death by a thousand
17 cuts of one of our city's primary revenue generating assets, the
18 unique, natural beauty of our Sonoran Desert that attracts hundreds
19 of thousands of tourists each year and which is one of the primary
20 reasons people move to Tucson.

1 So, let's not kill the goose that laid the golden egg.
2 Please honor your agreement with City residents to protect and
3 defend the land use guidelines outlined in the Houghton East
4 Neighborhood Plan, otherwise known as HENP. Keeping your promise
5 is the best way to generate a stable growing tax base, especially
6 for future -- from (sic) future residents who will continue to move
7 here for the very same reason that most of us did. Breaking your
8 promise to City residents will have the opposite effect: making
9 it more difficult for the city to regain the trust of its citizens,
10 especially when it comes to negotiating any proposed future
11 annexations.

12 So, please, do the right thing and reject the proposed
13 Fry's development at 22nd and Houghton Road. Our ever-growing
14 base of supporters will be watching very closely. Thank you.

15 ZONING EXAMINER: Mr. Harrington, can I ask you a
16 question?

17 MR. HARRINGTON: Yes.

18 ZONING EXAMINER: In Ms. Silvyn's presentation, one of
19 the things she said was she believed we were at a point where the
20 -- the -- her -- her client and the neighbors kind of agree to

1 disagree. Do you think that's where we're at?

2 MR. HARRINGTON: No.

3 ZONING EXAMINER: So -- so, what do you think is -- where
4 do you see there's room to move here?

5 MR. HARRINGTON: Well, I would like to see smaller
6 commercial development projects that reflect our uniqueness as a
7 community. I think that we -- we really need to keep tourism at
8 the forefront, meaning that's -- we're a big draw because of our
9 uniqueness. We're not everywhere America. We're not, hopefully,
10 like the depiction in -- in -- on -- of Speedway in Life magazine
11 years ago, the Ugliest Street in America.

12 I'm not saying that the Fry's development will be ugly,
13 but I just think that the increase in traffic -- God knows how many
14 gas stations we already have in the area to serve the local
15 population.

16 I think that the -- that the area is very well served
17 already by food stores. And I think a little added convenience
18 is not justified if it threatens the existence of tenants
19 surrounding those existing anchor tenants.

20 ZONING EXAMINER: Okay. Well, thank you very much.

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1 MR. HARRINGTON: Thank you.

2 ZONING EXAMINER: Next speaker, Colette Altaffer.

3 MS. ALTAFFER: Good evening. I'm Colette Altaffer. I
4 have some documentation. I don't know whether you want to take
5 this or not.

6 ZONING EXAMINER: You can -- you can leave it -- you can
7 leave it there and John will pick it up in a little bit.

8 MS. ALTAFFER: Okay.

9 ZONING EXAMINER: Okay?

10 MS. ALTAFFER: The essence of this case can be distilled
11 down to a single question: Does the Applicant's proposed
12 development plan meet the open space requirements of the Houghton
13 East Neighborhood Plan?

14 The Neighborhood Plan has two definitions for commercial
15 uses: Neighborhood commercial and community commercial.
16 Neighborhood commercial anticipates less intensive development
17 and requires 20% consolidated open space. Community commercial
18 anticipates more intensive development and requires 25%
19 consolidated open space.

20 The intensity of this proposed PAD fits the description

1 of community commercial, but the Applicant knew they could not meet
2 the 25% open space requirement, a sleight of hand approach would
3 be required to convince elected officials that this PAD was
4 appropriate for this site.

5 First, the Applicant proposed a project consisting of
6 at least five separate buildings totaling over 143,000 square feet,
7 knowing full well they could not meet the parking requirements.

8 When they reduced this proposal down to three buildings
9 at its current 118,000 square feet, it was easy to convenience
10 Council aids that the Applicant was being accommodating and the
11 residents were elitists and MBs.

12 This was followed by reams of documentation, including
13 three separate drafts of the PAD. They included words like hybrid
14 and definitions of neighborhood shopping center from retail trade
15 associations that were carefully woven among official City Code.

16 But through it all one key provision remained unchanged:
17 The Applicant could only provide 20% open space and this placed
18 them squarely in the neighborhood commercial category. However,
19 this proposed development could not meet the protective UDC Code
20 requirements for neighborhood commercial no matter how much

1 lipstick they applied.

2 Those UDC requirements would have eliminated
3 drive-throughs and provided the adjoining residents with less
4 nighttime disruptions, all while ensuring the development was more
5 compatible with the Houghton Scenic Corridor. This was
6 unacceptable to the Applicant.

7 So, a final deception was required. At the eleventh
8 hour, just days before this hearing, the fourth draft of the
9 proposed PAD was unveiled and, like magic, 25% open space appeared.
10 So, how was this done? To answer that question, you must closely
11 examine both the PAD document and the Staff report. Dramatic
12 changes were made to Exhibit 3.B.1, the Conceptual Land Use Plan.
13 Green-colored areas suddenly appeared along the western and
14 southern boundaries of the site. Landscape strips that are
15 required by the scenic corridor and the UDC Codes now doubled as
16 the open space requirements of the Neighborhood Plan.

17 The HENP's definition of consolidated open space, which
18 the Applicant included in their pre-submittal review, had to be
19 excluded. Why? Because they could not meet the requirements that
20 the open space be, quote, "an undisturbed area free of structures

1 or other improvements to create continuous areas of undisturbed
2 natural vegetation.”

3 They hoped you wouldn't notice the four driveways that
4 break the continuity, or the 30-inch screen wall shown in Exhibit
5 3G, or the fact that this area will be revegetated. If you actually
6 pay attention to those details, and you follow the Neighborhood
7 Plan, this PAD is still only providing 20% open space.

8 But, wait, it gets better. Buried in the PAD's 98 pages
9 are key elements that reveal its true nature. On page 10, the
10 Applicant carefully cut and pasted a portion of the future growth
11 scenario map out of Planned Tucson, but conveniently removed the
12 disclaimer that states that this map is for illustrative purposes
13 only and does not indicate official City policy. This took real
14 chutzpah, given the fact that a number of their own exhibits
15 contains similar disclaimers.

16 On page 60, they stipulate that deliveries shall be
17 limited to between 12:00 a.m. and 6:00 a.m., which means the
18 adjoining residents can be subjected to the sound of backup horns
19 at 3:00 in the morning.

20 Eight-foot-high perimeter walls will be allowed, which

1 means the adjoining residents won't see the open space buffer.

2 On page 62, Exhibit 3E, the Preliminary Grading and
3 Drainage Plan shows retaining walls along the parking lot side of
4 the open space buffer, with sections of those walls reaching
5 heights of eight feet. The combination of these two types of walls
6 will turn the open space into the proverbial baloney sandwich.

7 Retaining walls require massive footings and heavy
8 construction equipment to prepare the site, so much of the natural
9 vegetation will have to be disturbed.

10 On page 74, 20% of the property will be designated as
11 open space for heat island mitigation, but interior landscape is
12 not included in that designation, which implies that the exterior
13 landscaping will have to serve a dual purpose.

14 We haven't even gotten to the sham process known as the
15 Design Review Committee or the myriad other issues that can be found
16 among these pages.

17 Since this PAD, if passed, becomes codified, I'd like
18 to leave you with this exercise: Imagine that you are standing
19 at the intersection of 22nd and Houghton on the developed site and
20 you are looking back across the property after the proposed

1 development has been completed. At the north and east sides you
2 will see an eight-foot-high screen wall, and down below that you
3 will see another massive concrete wall that varies in height up
4 to eight-feet-high. In front of that will be a large four-sided
5 building rising as high as 30 feet in some places. This will be
6 surrounded by a sea of oil-based asphalt that covers the riparian
7 area where stormwater once flowed. To your left and right
8 stretches a 30-inch-high screen wall. So much is asked of this
9 property that the 30-foot-wide landscape buffer on your left will
10 have to be used three separate times to meet various Code
11 requirements. The very fact that this proposed development
12 requires this level of engineering, and places multiple demands
13 on sections of the property, is, in itself, a clear demonstration
14 that this PAD vastly exceeds the intent of the Houghton East
15 Neighborhood Plan.

16 How could you, in good conscience, rule that this
17 development, with its level of intensity, supported by deceptive
18 practices, is an appropriate development for this site for our
19 community? I urge you to reject this rezoning request.

20 ZONING EXAMINER: Okay. Thank you. Linda Schaub. I

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1 hope I -- did I pronounce it right?

2 MS. SCHAUB: Yes, Schaub. Will you excuse me? I --

3 ZONING EXAMINER: Okay.

4 MS. SCHAUB: -- threw my back out so (inaudible; no
5 microphone).

6 ZONING EXAMINER: Oh, would you like to sit down and do
7 this?

8 MS. SCHAUB: No, I -- I'm going to -- I've toughed
9 through this for the past two years. I can tough through this.

10 ZONING EXAMINER: Okay. Okay.

11 MS. SCHAUB: My name is Linda Schaub. I'm a retired
12 engineering draftsman from TEP after 42 years. I live in the
13 Houghton East Neighborhood.

14 I am here to oppose the request by the Fry's Grocery Store
15 chain to rezone the property at the northeast corner of 22nd and
16 Houghton. Regulations for development of this property are in the
17 Houghton East Neighborhood Plan, otherwise known as the HENP.
18 This undeveloped SR parcel is bordered by low-density residential
19 zoning; RX on the north and east; SR and RX1 on the south.

20 When I first moved into this area 15 years ago, I knew

1 this parcel, one-tenth of a mile from my house, would eventually
2 be developed, but I never imagined a scenario would be of this
3 scale.

4 When this proposal first came to my attention in April
5 of 2015, I talked to many nearby residents. Many of the original
6 owners had felt that the HENP would protect them. After all, it
7 was written as an inducement for them to support the area being
8 annexed into the City in 1984. Now they feel very threatened.
9 They had visited by -- they were visited by the Applicant or her
10 (sic) representative, and told that this development was a done
11 deal. When I explained that there would be a public process where
12 their voices could be heard, they were completely surprised.

13 I circulated a petition and obtained 271 signatures of
14 the residents in the immediate area opposed to this proposal.
15 Later, when a group of us formed the Safe Houghton East Coalition,
16 we collected an additional 700 signatures from those of the broader
17 far eastside area. Clearly, there was not local support for the
18 Fry's development at this location. All of this was before the
19 first step of the City process, the amendment to the HENP to allow
20 an additional six feet of building height from the 20 feet which

1 had been set in 1984. That lower commercial building height had
2 been put in place as protection against intensive commercial
3 development at Houghton and 22nd intersection. It was in contrast
4 to the building height of 28 feet allowed at Broadway and Houghton.

5 Houghton is seen as a gateway to Saguaro National Park,
6 a regional treasure, whose buffer is barely 2,500 feet from the
7 eastern edge of this parcel, not the two miles that they claim.
8 Less commercial development was a means to protect the view shed
9 of the valley.

10 When Mayor and Council approved raising the height limit
11 to 26 feet, they also made clear to the Applicant that there was
12 to be communication with the neighbors to work out a mutually
13 acceptable project. That meeting did not happen until March 29th
14 of this year, and only after I contacted the Fry's corporate office.

15 As spokeswoman for the neighborhood opposition, I've
16 gone to countless meetings at the library, at the Planning
17 Commission, at Mayor and Council. I've been interviewed and
18 quoted out of context multiple times by the media. I've met with
19 each councilman. I have studied Planned Tucson, the UDC Codes,
20 and memorized the HENP. I've become the lightning rod for the

1 opposition. I have not given up the fight to protect the area.
2 I feel I have an obligation to represent the hundreds who signed
3 those petitions entrusted to me, even though this process has now
4 dragged on for 24 months.

5 I urge you to take seriously the content of the HENP and
6 it's three goals: First, to ensure superior site design; second,
7 to develop a compatible mix of suburb and low-density residential
8 uses; and, goal three, integrate new development with the Saguaro
9 National Monument -- now Park -- by retaining natural drainageways
10 for wildlife movement, visually enhancing views from the park of
11 the valley, and buffering existing rural density development.
12 This huge box does not enhance any view of the city or the valley.

13 The HENP contains very specific regulations of flood
14 control and drainage, including prohibition of
15 detention/retention basins, and other improvements in the
16 designated spine washes; it specifies open space requirements for
17 any commercial land use. Unfortunately, as the Applicant worked
18 out details of how to meet those requirements, once more, I heard
19 that it was a done deal. Staff, apparently, had chosen to use a
20 definition of neighborhood commercial taken from the International

1 Council of Shopping Centers, a trade association whose mission is
2 to advance the shopping center industry; that rather than have an
3 amendment of the HENP or use definitions from the UDC.

4 To hear that a retail center just 82 square feet shy of
5 100,000 square feet, with an additional fuel station of 18 pumps,
6 and two other retail sites in a sea of asphalt for parking was
7 considered low-intensity, small-scale neighborhood commercial
8 completely blew my mind and pissed me off.

9 I have for you a packet of materials giving you
10 information too detailed and complex to present orally at this
11 hearing. As I and Colese (ph.) have reached the details in -- of
12 the Applicant's latest submittal, we find inconsistencies, new
13 data never before shared with neighbors, and content which, quite
14 frankly, appears to be deliberate efforts to bypass the HENP and
15 amounts to a bait-and-switch. Their proposal does not change
16 either the HENP or the reality. It must be interpreted according
17 to the conditions under which it was adopted.

18 This project does not match what was intended for the
19 area; therefore, it should be respected, not ignored, or
20 reinterpreted by Staff or Applicant. To do so negates the

1 relevancy of the HENP and threatens the existence of any
2 Neighborhood Plan.

3 As the Zoning Examiner, you, sir, are in a quasi-judicial
4 capacity and it is your duty to uphold laws. The residents of the
5 area have a reasonable expectation for the City to honor that
6 contract.

7 On behalf of the nearly 1,000 people whom I still
8 represent, I urge you to make a recommendation of denial to Mayor
9 and Council. Our area deserves better than this, both in terms
10 of product and process.

11 And I have the packet here. I will leave it for you.

12 ZONING EXAMINER: Okay. Ms. Schaub, can I ask you a
13 question?

14 MS. SCHAUB: Sure.

15 ZONING EXAMINER: As Ms. Silvyn said, that we're at a
16 point here where both sides of this issue, the Applicant and the
17 neighborhood, agree to disagree. Do you think that's where we're
18 at?

19 MS. SCHAUB: We have disagreed with -- with their
20 proposal since the beginning.

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1 ZONING EXAMINER: Okay.

2 MS. SCHAUB: We have also offered them opportunities of
3 different types of commercial. We are not against development.
4 For example, a medical plaza, a senior center, a bike ranch, a
5 Sprouts, a Trader Joe's, something of a smaller nature that would
6 fit in more with the community, even a small residential
7 subdivision, but that was not even considered; that was not in --
8 in their vision.

9 ZONING EXAMINER: Okay. Thank you very much.

10 MS. SCHAUB: Would you like a copy of my speech?

11 ZONING EXAMINER: Sure, if you want to leave it there
12 because I will put that in the packet that the Mayor and Council
13 sees.

14 MS. SCHAUB: Thank you.

15 ZONING EXAMINER: Okay. The next speaker -- I'm going
16 to need my glasses here -- Catherine M. A. Gates.

17 MS. GALE: Gale.

18 ZONING EXAMINER: Gale. I'm sorry. Could've been an
19 L. Could've been a T.

20 MS. GALE: Good evening. My name is Catherine M. A.

1 Gale, G-A-L-E. I live in the buffer overlay zone, approximately
2 one mile east of this proposed development. I'm not going to
3 repeat any of the points that I would like to make that the previous
4 speakers have made.

5 The HENP was created to protect Saguaro National Park
6 and the one-mile buffer overlay zone specifically, as well as the
7 unique ruler neighborhood features of the Houghton East
8 Neighborhood Plan. It's a package deal.

9 I would personally like to say I am not against growth,
10 but I am against growth for the sake of growth. Instead, I prefer
11 smart, sustainable growth.

12 I'm very curious as to why the City of Tucson goes to
13 the expensive of putting together this very lovely, colorful,
14 colorful, glossy -- I'm sure it's very, very expensive -- plan for
15 the City of Tucson when we do not follow it. It's a wonderful plan.
16 It's exciting. This is what we should be showing businesses, both
17 nationally and international, to encourage them and invite them
18 to come to Tucson and be part of our community.

19 I would like to point out several people have referred
20 to 22nd Street as a major artery. Actually, at this point, it's

1 not, especially towards the east of the Houghton intersection; it
2 is a one-lane Road to Melpomene. Melpomene goes south to Old
3 Spanish Trail; that continues to be a one-lane, paved road. To
4 the north of 22nd, Melpomene is a dirt road. In the plan, it
5 specifies, the Houghton East Neighborhood Plan, that Melpomene
6 will never be a major arterial road; it is to be considered an
7 arterial street.

8 I would also like to point that 22nd Street from the west
9 of the Houghton Road intersection is also a one-lane road that has
10 not improved as far as the Old Spanish Trail intersection. From
11 Harrison Road to Old Spanish Trail heading east, it's two lanes,
12 and then you go down to one lane from Old Spanish Trail to where
13 the RTA intersection at Houghton Road occurred.

14 You're going to be gathering if -- excuse me -- for this
15 development to be successful, they're going to have to draw people
16 from at least a three-mile radius both north, south, west, and east.
17 The area to the east is already fully developed; it's basically
18 a mile and a half. There's maybe a few houses that can go in. And
19 I really don't think the coyotes and the mountain lions and the
20 deer from Saguaro National Park are going to be very -- doing much

1 shopping at the grocery store. But we are going to have to draw
2 people in from the west and from the north and the south. And at
3 this time there's no money to improve 22nd Street.

4 I found it really interesting this morning on the front
5 page of the Daily Star a map with what roads would be improved by
6 the proposed sales tax that is being presented to the City -- by
7 the City to the citizens. Twenty-second Street is one of the roads
8 earmarked for improvement by that sales tax. So, I think it's
9 misleading to consider 22nd Street at this time a major artery.

10 I would also like to point out specifically there's this
11 belief that the gate to Saguaro National Park, the entrance, is
12 two miles away, so why should we be concerned about Saguaro National
13 Park and the buffer overlay zone? The actual one-mile -- excuse
14 me -- one-mile buffer overlay zone goes west from Saguaro National
15 Park, and basically the boundary is Melpomene from Broadway down
16 to Old Spanish Trail; it's that one mile west of the park. Then
17 we have the HENP plan, and it's really interesting to note that
18 the buffer overlay zone is only 833 yards east of this proposed
19 big-box store.

20 I also have some concerns -- so I'm not going to go into

1 a lot of detail about them -- about flood control and drainage.
2 This whole area, as noted in the Houghton East Neighborhood Plan,
3 it consists of small drainages and is subject to sheet flooding.
4 And I don't understand how the development is going to handle the
5 water that's going to run off, because that area is an actual
6 riparian area; it's a -- it's natural drainage for the
7 neighborhood. And one of the things that was with -- was involved
8 in the Houghton East Neighborhood Plan was those natural
9 drainageways were supposed to be corridors for wildlife.

10 So, I will conclude -- I'm sure you've heard enough from
11 everyone -- but I would just like to reiterate I'm not against
12 development. I -- I want Tucson to be successful. And I think
13 smart growth is just worth more than growth for the sake of growth.
14 Thank you.

15 ZONING EXAMINER: Thank you. Bonnis Polis?

16 MS. POLIS: (Inaudible; no microphone).

17 ZONING EXAMINER: Okay. Ruth Beeker.

18 MS. BEEKER: That's me. I'm still here. It's my
19 understanding that the woman who originally owned these parc- --

20 ZONING EXAMINER: Could you just say your name just in

1 --

2 MS. BEEKER: Oh, Ruth Beeker.

3 ZONING EXAMINER: Thank you.

4 MS. BEEKER: It's my understanding that the woman who
5 originally owned these parcels bequeathed them with a request that
6 the property be a site of a church or a school. She certainly
7 appreciated its unique setting.

8 It is my understanding that the residents of Houghton
9 East approved its annexation to the City of Tucson in 1984, with
10 the assurance that the City would respect its unique environment
11 by approving the Houghton East Neighborhood Plan. That plan
12 recognized that there would be commercial at the corner of 22nd
13 and Houghton, but it would be secondary to the primary commercial
14 at Houghton and Broadway. It would also be secondary to
15 preservation of its surrounding natural environment.

16 The owner of the property and the residents of the area
17 had faith that they had done what was best for the entire area.
18 They trusted that others would respect their request. Neither could
19 have ever anticipated why we are here tonight. Yes,
20 times have changed. How to meld the past and the present seldom

1 is easy. However, this proposed development in no way even
2 attempted to do so in spite of what you heard from Ms. Silvyn this
3 evening. It is so disproportionally large for its setting, so,
4 obviously, pro- -- profit-driven, so dismissive of the conditions
5 stated in the HENP.

6 How disappointing that no one in the City of Tucson
7 government took seriously the Neighborhood Plan when first
8 approached; that they would say this is not the right location for
9 this project.

10 How unfortunate that Mayor and Council were asked only
11 to approve an amendment for height extension, but not for
12 clarification of open space required. That would have been so much
13 more honest than playing with the numbers and avoiding UDC
14 definitions as this proposal apparently does.

15 It's time for reason to prevail by all stakeholders,
16 including residents, all working together with integrity. I must
17 admit I have never heard before that living room one-on-one
18 meetings count as public meetings. To explore appropriate
19 commercial uses for this 16.3 acres needs the give-and-take of true
20 group communication. There are appropriate commercial uses for

1 this 16.3 acres. To pre- -- to pretend that this proposal details
2 one of them defies credibility. To dismiss the legitimate
3 concerns of those whose quality of life and property values are
4 expressed in their Neighborhood Plan diminishes this all. The
5 woman who originally gave the church the stewardship of this land
6 must be rolling over in her grave. Thank you.

7 ZONING EXAMINER: Thank you. Next speaker is David --
8 David Robertson.

9 MR. ROBERTSON: Hi, I'm David Robertson. I'm a
10 resident of the area and I would like to speak against this
11 development. It's inappropriate for its location and it's
12 greed-driven, not profit-driven, but greed-driven. The Planning
13 Center poisoned the well in -- in discourse with their manipulation
14 of the process. And they've pulled shady little deals like getting
15 it below the big-box ordinance, you know. They're doing
16 everything a developer can do to maximize its profit.

17 The whole point that everyone's made so well tonight is
18 that we're not against development. I was on the team that went
19 against the Ventana Canyon, and when we came back, you know, after
20 we met with the developer and the landowners, they came up with

1 this beautiful plan, you know. But the process has been poisoned
2 by the manipulation of the developer and the representations that
3 he's made, saying it's a done deal, saying we're going to do it,
4 you know, total disregard for what the people in the neighborhood
5 have to say.

6 And then they find somebody that agrees with them and
7 there's community outreach, you know. They did a presentation and
8 when we ask a serious question about it, they walk away, you know.
9 I, for one, was really upset about the -- the presentations that
10 I've been to because of the dismissive attitude of the developer
11 and their agents. I'm against it, you know. It's a good idea in
12 a bad place. We -- Tucson deserves better.

13 But what's really activated me on this is that it appears
14 that the City government doesn't care about the promises they've
15 made in the past. This is supposed to be a scenic corridor. The
16 wires, the big -- the high-tension wires are supposed to be buried
17 in this area, you know. There's all sorts of things so you just
18 kind, eh, you know, maybe no one will notice. There's an overhead
19 light every 60 feet. That's real scenic. There's five trees in
20 one mile in the new -- in the new section on -- on Houghton Road.

1 Five trees, you know. And you say why aren't there more trees?
2 Wasn't in the budget. And that's what this is all about. It's
3 not in their budget. And, when you corner them, they'll change
4 it to try to get through and they'll sneak things in.

5 And so, because of the lack of transparency and integrity
6 on their side, I feel that this should just be shelved and -- and
7 go start again. There's better places that are more suited for
8 this, that are -- but this is cheap land and that's what it's all
9 about, getting cheap land and -- and shoehorning in as much as you
10 can.

11 And it doesn't matter that it's aesthetically pleasing,
12 it doesn't matter that it's -- that it messes with the park, it
13 doesn't matter that you're going to have to throw out the entire
14 HENP. When you look at it closely, in order for this to proceed,
15 the entire HENP will have to be disposed of, so they will kill it
16 by a thousand cuts, little cuts, little digs, little digs. I know
17 how this works. But, anyhow, that said, I'm against the process.
18 Thank you.

19 ZONING EXAMINER: Thank you. Yes. Anybody else
20 that's forgotten after they spoke to sign in there when -- you know,

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1 please come forward. Okay. Thank you.

2 Next speaker is Gayle Mulholland. Did I pronounce that
3 correct?

4 MS. MULHOLLAND: Yes.

5 ZONING EXAMINER: Okay.

6 MS. MULHOLLAND: Hi. Thank you for letting me speak,
7 Mr. Mazzacco.

8 ZONING EXAMINER: Yes.

9 MS. MULHOLLAND: I'm Gayle Mulholland. I live in the
10 neighborhood. I moved in in 1988 and have seen a lot of
11 development. Not against development, like you've heard, just
12 unwise development.

13 And I want to make you all understand that this really
14 can be a win-win situation. And instead, if it continues the way
15 it is trying to, it will very negatively impact our national park,
16 as well as the neighbors who moved into the neighborhood with good
17 faith that it would remain the way that they had promised many years
18 -- well, in '88, I guess, or '84.

19 I've heard arguments. Some call it a nim- -- the nimby
20 (ph.) argument. And I think it should be to all of Tucson that

1 our Saguaro National Park is our backyard. And it's Tucson's
2 backyard. It's your backyard. It's our backyard. It's
3 everybody's backyard. And we all should be concerned what this
4 impact will have on it.

5 Other arguments I've heard is people want more
6 convenient shopping. Well, at this point, within five minutes,
7 I can go to four grocery stores. I can go to three retails. I
8 can go to four Starbuck's. If I want to go ten minutes, I can add
9 three more grocery stories. So, we don't -- this -- this isn't
10 needed to have more convenient shopping. Our convenient shopping
11 is right here, right now. Okay. Besides, why would you move to
12 an area where you want more convenient shopping if it wasn't here
13 and you could do like in town closer? So, a few people feel that
14 everybody who moved into this neighborhood with good faith should
15 change so that we could have this? You know, it's not right.

16 Also -- see what I have here. An ar- -- another argument
17 is jobs; that if it's built there'll be more jobs. Fry's can build
18 a superstore and there will be jobs. So, it doesn't need to be
19 on this site to have the jobs. One possible site -- people had
20 talked about -- what is it? -- Wilmot and the freeway; there's a

1 land lot there. People who live there say they have to drive 30
2 minutes to get to a store. Fry's could build a big store there.
3 It's not necessary for jobs. You can get your jobs -- 22nd Baptist
4 Street Church (sic) certainly has the right to sell their land,
5 and it will be sold. This isn't -- you know, people are interested
6 in this land, so that could happen, so I don't hear where that
7 argument is. Okay.

8 Fry's said that they conducted -- well, they conducted
9 a survey to show -- okay -- I'm nervous about this. I don't like
10 speaking. I'm used to speaking to preschoolers, so -- but -- okay.
11 Okay. I'm a preschool teacher with TUSD. That they had done a
12 survey and this is a great location for them. Well, number one,
13 don't you suppose Bashas did a survey and look where it got them.
14 Their store has been closed for eight years.

15 Number two, I have friends who shop at this store that's
16 on Harrison and 22nd Street on their way home from work for
17 different things, and they said they won't go out of their way to
18 come to this one. They want to keep going to the same one or they'll
19 just go to Albertson's, so that's not going to help them out.

20 And, third -- okay -- the -- Wilmot and the freeway. So,

1 this development at this corner is a folly and I don't think it
2 should be reinforced. I don't think we should do it.

3 I'm concerned about empty stores. Twenty-second Street
4 and Harrison is going to be empty then. I guess maybe something
5 someday, eight more years. We, in our neighborhood, feel like this
6 will be closed, too, because I don't see how it's going to hold,
7 you know, what they're saying it's going to. And talking about
8 the progress of shopping online. I'm shopping more online.

9 And then, like they just mentioned, 22nd Street
10 dead-ends at Malpomene. So, it's about a half a mile further and
11 it dead-ends. So, it's just really silly to put it here. It could
12 go somewhere. I like the idea of having the bike -- maybe
13 retirement. There's a bunch of things that could go in that could
14 make better sense. Fry's can go somewhere else. It's just really
15 silly to do it here. Again, shopping -- we've got shopping. I
16 can go to three store -- four stores in five minutes. So, thank
17 you for your time.

18 ZONING EXAMINER: Thank you. Donna Walton.

19 MS. WALTON: Hi, I'm Donna Walton. And I live in the
20 -- on the property that is just east of this proposed PAD. I moved

1 there in 1988. I've been in Tucson since 1963. So, we moved there
2 four years after the annexation into the city. And the promises
3 were made and to be kept.

4 Just because it can be changed to zoning C1 doesn't mean
5 that it should be. It's SR for a reason, I believe, because of
6 the washes and the tributaries that go through there. The
7 northeast corner of the proposed property has a big wash in front
8 of the house on that street. And we're very concerned about
9 flooding and how that they were going to redirect the water, even
10 if it would be under the asphalt.

11 I also worry about the traffic, the heat island, of
12 course. Twenty-second Street, as already stated, east of Houghton
13 is a two-lane road, one in each direction. I don't see that that
14 will be developed. There's not enough population east of Houghton
15 to support it. I shop at the Fry's at 22nd and Harrison. It's
16 very adequate and there's no problem with that size store.

17 I believe that this proposal is way too big for that size
18 of property, whether there's 20, 25% of undisturbed area, it
19 doesn't matter. The buildings, the parking, it's just too much
20 for that size of proper- -- of property.

1 I'm also concerned about it closing and me having this
2 empty mega-store or big building -- et me just say a big building
3 behind my house; that we could have vandalism and other issues.
4 Just repeating what other people have said, but I want you to know,
5 as a person and a resident who borders this property, those are
6 some big concerns of ours.

7 The Houghton Scenic Corridor is titled that for a very
8 good reason, and restrictions should remain in place to keep it
9 just that, to keep it scenic. The development of this property,
10 to include a big-box store, a small strip mall, and small
11 restaurant, with a 24-hour gas station, on a very small parcel of
12 land would degrade the scenic area, create the heat island, and
13 cause increased traffic and light pollution in our area of the city.

14 The proposed PAD would reduce the view of the night sky
15 for the neighbors and reduce the view of the Rincon Mountains for
16 those traveling on the Houghton Scenic Corridor. The increased
17 traffic and congestion this close to the Saguaro National Park
18 threatens the HENP and the rules of the Houghton Scenic Corridor.
19 But just as important is the threat to break the promise that was
20 made by the City of Tucson 30 years ago to the public.

1 We appreciate the well-thought-out growth and
2 development of the City of Tucson in the surrounding areas. We
3 are not nimbies (ph.). We're not saying not in our backyard and
4 we are not against the well-thought-out development of this parcel
5 of land. The beautiful mountains, desert wildlife, plant life
6 and, yes, the building to support the increased population is
7 important, but not necessary on this parcel of land.

8 The PAD buildings could be placed on another busier
9 corner that is already commercial zoned, and would feed just as
10 much or more population than this current area of Houghton and 22nd.

11 Please do not consider the rezoning from SR to C1. Thank
12 you.

13 ZONING EXAMINER: Okay. Thank you. R. Roy Johnson.

14 MR. JOHNSON: Mr. Mazzacco, fellow Tucsonans, I'm Roy
15 Johnson, retired National Park Service, scientist and University
16 biology professor.

17 A gentleman earlier said he was a native Arizonan in '83.
18 Well, the first liar doesn't have a chance. I'm 84 and a second
19 generation native Arizonan. I've been in Tucson for 38 years.
20 Live with my wife at 3755 South Hunter's Run. In my 84 years, I've

1 lived in a wide variety of places. None of them outshines Tucson
2 or to be associated with a park service in Saguaro National Park.

3 Before I get on -- you know, I hate to rain on the parade
4 because there were so many members of the Baptist Church and people
5 who had such good feelings about this going forward, but the --
6 there -- there -- we need to clarify some things. For example,
7 the lead speaker mentioned that they had cleared up a lot of
8 misinformation that was out there was the term. Now, that wasn't
9 misunderstanding, but misinformation. Misinformation can be
10 accidentally put out by people not meaning to, or it can be --
11 somebody mentioned earlier poisoning the well. Sometimes it's
12 done on purpose.

13 There was a couple people here this evening -- and I've
14 heard this before -- talking about all the wonderful jobs that are
15 going to be added to the community by this big-box store. If you'll
16 get online and look up the studies that have been done with big-box
17 stores, you'll find that there are fewer employees hired per capita
18 by a big-box store because of the efficiency of size than there
19 are if you have small markets. That's something that I don't think
20 people reali- -- I don't know whether people don't realize that

1 or just the idea of dangling jobs is a way of getting the desired
2 results.

3 Since 1982, hundreds of citizens have donated thousands
4 of hours of time and worked with nearly an equal number of City
5 and Council Staff to produce several hundred pages and more than
6 a half a dozen long-term development plans at considerable expense
7 to Tucson and Pima County. Sorry. I'm really hoarse. I've got
8 terrible allergies. Thus, it seems unconscionable that Tucson's
9 neighborhood associations and citizens were only given a few days
10 to approve or protest proposed actions that have required months
11 to prepare by the Planning Center, Tucson Planning and Development
12 Services Department and several other groups.

13 I've been working with the Houghton East Neighborhood
14 Associ- -- group and the HENP that people have talked about, and
15 this agreement, of course, as people have mentioned earlier, was
16 done in 1984, and most of us are addressing that issue tonight and
17 I want to bring up a few additional points.

18 What's the economic value of Saguaro National Park? As
19 a retired park service scientist, I'm very interested in such
20 things. How does that compare to taxes expected to be received

1 from commercial developments along Houghton Road? A Monday, April
2 24 -- just this week, Monday -- article in the Arizona Daily
3 Star reported that in 2016, 820,000-plus visitors to the park spent
4 \$52.8 million and supported 762 jobs, resulting in additional
5 funding and a total infusion of \$74.2 million into the nearby
6 communities.

7 Now, if you use the economic multiplier principle of the
8 value to dollars that are infused into -- into a location, somewhere
9 between -- the multiplier says that there's somewhere between four
10 and seven times, depending on who tells you, that accumulates to
11 that community; therefore, that would mean that this \$74.2 million
12 that comes into the community, after it circulates through the
13 community, would be several hundred million dollars worth of
14 business.

15 Starting from the overall aspect of open space and view
16 shed -- back again to the HENP -- if I understand the Zoning Examiner
17 Agenda Report correctly, all four corners of the intersection at
18 22nd and Houghton are to become commercial developments.

19 1990, prior to the designation that all of Houghton Road
20 within the city limits is a scenic route, a commercial development

1 cluster at the corner of Houghton and Broadway was allowed by an
2 amendment to the HENP. That amendment was in 1990, and they
3 allowed this development of the commercial cluster at the corner
4 of Broadway and Houghton. And it was the understanding of many
5 of the residents at that time that that would be the major
6 commercial development and that the scenic route that was in effect
7 would pertain to most of the rest of the area, or certainly the
8 rest of the two-square-mile covered by the HENP.

9 Now, it appears we've continued to ignore many of the
10 criteria of a scenic route, designated scenic route, slide down
11 a slippery slope, chipping away at the HENP with additional
12 exceptions. I'd like to suggest that over time this could lead
13 to the entire Houghton Corridor being converted into a commercial
14 corridor, rather than the currently -- designation as a scenic
15 route, or to paraphrase a famous movie line, "We don't need no
16 stinking open space."

17 How can this PAD be called a hybrid? This has been
18 mentioned earlier, so I won't say much about it. But I was just
19 blown away by hybrid. As a biol- -- that was recently a biological
20 concept, of course, and we have -- now have hybrid cars. But I

1 don't understand what a hybrid neighborhood is. I understand that
2 it's supposed to be between neighborhood commercial and community
3 commercial, but I don't know how that fits into the whole Tucson
4 planning. After all the plans -- and they've been shown and
5 discussed here -- I -- I haven't -- I didn't hear anything about
6 any hybrid planning in any of these previous documents.

7 Open space is a big subject, mentioned more than 30 times
8 in the PAD document --

9 ZONING EXAMINER: Can you --

10 MR. JOHNSON: -- consolidated open space is defined --

11 ZONING EXAMINER: -- can you -- can you start getting

12 --

13 MR. JOHNSON: Wrap it --

14 ZONING EXAMINER: -- towards your --

15 MR. JOHNSON: Okay. Sure.

16 ZONING EXAMINER: -- final statements?

17 MR. JOHNSON: So, consolidated open space is defined in
18 the HENP as an area of sufficient size as to create visual diversity
19 and interest and/or passive recreational opportunities. The open
20 space continuing -- the HENP says the open space should be

1 contiguous within the project site and linked with other open space
2 areas surrounding the site to create continuous areas of
3 undisturbed natural vegetation. I cannot tell that these criteria
4 are being met by the PAD. Thank you.

5 ZONING EXAMINER: Thank you.

6 MR. JOHNSON: I'm leaving a statement here --

7 ZONING EXAMINER: Okay.

8 MR. JOHNSON: -- a copy of my statement.

9 ZONING EXAMINER: Okay. And let's see who we have here.
10 We have Terry Sapp.

11 MR. SAPP: Thank you, Mr. Mazzacco. My name is Terry
12 Sapp. I own the adjoining property east of the proposed
13 development at the northeast corner of the site. Two hundred feet
14 of my property line borders the lot. I have lived there for 23
15 years. I strongly oppose this project.

16 The property under consideration is within our
17 residential neighborhood. It is currently unbuilt, undisturbed
18 natural land which harbors and helps sustain the numerous local
19 neighborhood wildlife populations which are crucial to the
20 character and desirability of the area. This is a low-density,

1 quiet residential community on the outskirts of town; it consists
2 of single-story homes on one-acre lots which retain a significant
3 portion of the native desert plants and wildlife; it is scenic and
4 quiet and dark at night. The proposed changes would impose a
5 large-scale retail operation right inside the bounds of our
6 low-density residential community; it would eliminate the suburban
7 ranch zoning currently in place.

8 We had a very reasonable Neighborhood Plan and
9 associated restrictions agreed to and adopted years ago
10 specifically to protect us and this area of our community from
11 destructive exploitation of the land and to preserve the basic
12 integrity of the area. Rather than work within the constraints
13 of that original plan, and in the interests of our community, the
14 developer has chosen to undermine the intent of those guidelines.

15 The proposed plan would place a 2.3-acre concrete
16 structure, 25 to 30 feet high, less than 200 feet from my property
17 line. It would create a ten-acre paved asphalt parking lot with
18 over a 600-car capacity on the property. If you assume a turnover
19 of twice per hour, this would potentially introduce 20-plus cars
20 per minute entering and 20-plus cars per minute exiting the

1 facility, or 40 cars per minute total additional traffic congestion
2 in the neighborhood, which is totally unacceptable for our quiet
3 residential area.

4 Also totally unacceptable are the imposing silhouette
5 of a giant structure above my roof line, loss of the scenic view,
6 the industrial-scale lighting, which decimates the black
7 star-filled night sky, one of the most speculator aspects of living
8 on the outskirts of town, and the noise.

9 This proposal places loading docks and truck access
10 within 100 feet of my bedroom window. Apart from the visual impact
11 of large freight semi-trucks virtually in my backyard, the noise
12 will be reflected off the tall building wall back toward my
13 property, effectively destroying the peace and quiet and drowning
14 out any remaining sounds of nature.

15 This project represents an extremely abrupt transition
16 from low-density residential to high-density, high-use commercial
17 without sufficient barrier, which is unacceptable.

18 Even for the smaller proposed areas of open space, the
19 developer repeatedly proposes a landscaped barrier, as opposed to
20 the zones of undisturbed natural land defined and specified by our

1 Neighborhood Plan. This undisturbed land is absolutely essential
2 to preserve any remnant of the wildlife, natural beauty and
3 character of the area. In my view, there's absolutely no benefit
4 from this type of project at this location.

5 I'd also like to add that the eight-foot wall, as
6 mentioned, was not anything I was aware of before now, but will
7 definitely have the impact of blocking all the water that may be
8 drained, you know, from the -- from the surrounding residences
9 which normally have a natural drainage into that -- that lot.
10 That'll just be cut off by an eight-foot block wall. So, where's
11 the water going to go? I don't know. But it's not going to flow
12 in a natural wash or tributary.

13 And the -- it also --- as was brought up earlier, that
14 eight-foot wall blocks the view and the intent of the open spaces.
15 We can't see them. What's the point? And that certainly it also
16 specifies that those areas of open space are supposed to be
17 interconnected with other areas of open space blocked off by law.
18 Doesn't happen. So, thank you very much.

19 ZONING EXAMINER: Okay. Thank you. Filomena
20 Blankenship. Thank you.

1 MS. BLANKENSHIP: So, thank you for allowing me to
2 speak. My name is Filomena Blankenship.

3 And, before I read what I wrote, I'm so glad that you
4 asked about the loading trucks and the sound, because I live on
5 the southwest subdivision. And, when they were redoing the roads,
6 every morning for hours and hours I would hear beep, beep, beep.
7 that was my alarm clock. And the only way that got me through it
8 was one day this is going to be over; and when it was I absolutely
9 celebrated. But for this gentleman that just spoke and this woman,
10 there is no when it's over. That's for the rest of their lives.
11 You know, I mean, how totally unfair is that to bring that upon
12 them? None of you would want that for your families.

13 So, I'm here in support of keeping the HENP zoning at
14 Houghton and 22nd as it was originally intended. Those who put
15 it in place did so for a reason. They knew growth would happen
16 and wanted to restrict the exact type of project that is now being
17 proposed.

18 Because of the proximity to one of Tucson's most precious
19 resources, the Saguaro National Park, its wildlife and adjoining
20 neighbors that would be affected, there is no rational reason for

1 putting a super Fry's, a strip mall and gas station other than the
2 monetary gain for the Fry's Corporation. The reason -- this reason
3 alone is not enough to allow for the impact it would cause. At
4 some point money shouldn't be the predominant deciding factor.
5 What is right and what is fair needs to take precedence. It only
6 seems logical if you want to engage in a large business venture,
7 that you find an appropriate piece of land on which to do so, one
8 that is zoned for the needs of the property and that of the community
9 you wish to serve. Instead, Fry's is trying to rezone a parcel
10 that was never intended to house a project such as being proposed
11 and upending the desires of the neighbors and the national park
12 that would be affected. Certainly, a better solution
13 would be to build the proposed project at the next intersection
14 south at Houghton and Old Spanish Trail. This has not been
15 mentioned yet, but it is already zoned and ready for exactly what
16 Fry's wants to do. They would welcome you with open arms. They
17 wouldn't make quite as much money because they wouldn't own the
18 land that the gas station and other buildings would -- that they
19 would be getting money from; however, they would get the entire
20 proceeds of their Fry's store, which, hopefully, they would be

1 content with or should be.

2 When completed, it will be a very large business corner.
3 I'm speaking of the one at Old Spanish Trail and Houghton. A very
4 large business corner which makes building another very large
5 business corner a mile away redundant and unnecessary. We don't
6 need a huge complex at every single intersection. We already have
7 more than ample shopping and gas stations in a close proximity.
8 The residents, including myself, would much prefer less traffic
9 and noise, and our night skies to be filled with stars instead of
10 ambient light. I hope, along with the people's
11 objections, that the objections to the project from the Saguaro
12 National Park would be at the forefront of your decision. Theirs
13 alone should carry enough weight to keep HENP in place. There will
14 be many more Fry's built, but there will never be another Saguaro
15 National Park. Helping to protect it in any way possible should
16 be all of our responsibilities, and you are in a position to --
17 to do something to achieve just that. Thank you very your time
18 and consideration.

19 (Applause.)

20 ZONING EXAMINER: Thank you. So, that's all the

1 speakers. I don't know if the gentleman from Saguaro National Park
2 would take a question. Would you -- are you willing to come up
3 here? And could you identify yourself?

4 MR. SPRINGER: Sure. My name's Adam Springer.

5 ZONING EXAMINER: Adam Springer. Mr. Springer, so,
6 obviously, there's a lot of people out there that want to protect
7 the park, and I'm aware of the history, that area having a buffer
8 overlay zone during the 1980s with the County. And, obviously,
9 this Neighborhood Plan was built in that era -- or -- or was
10 adopted in that era, the early 1980s when there was a lot of concern
11 there. Has -- has your office looked at the impact of this
12 development on the park?

13 MR. SPRINGER: We have.

14 ZONING EXAMINER: And were -- are you willing to share
15 any of that?

16 MR. SPRINGER: Yeah, we -- we share a lot of the concerns
17 that were expressed already by the neighborhood of the height and
18 the -- and the open space and some of the drainage issues.

19 And then, you know, we also really appreciate what was
20 said earlier about how special it is having a national park so close

1 to an urban area like this, and to have neighbors adjacent to the
2 park that are -- are helping us to create a strengthened buffer
3 between us in those more urbanized zones. We really value that
4 and we value the support of this neighborhood.

5 ZONING EXAMINER: Do you see anything about this that
6 has a specific impact on any of the wildlife that come from the
7 park?

8 MR. SPRINGER: I mean, at this distance of 1.8 miles is
9 what I calculated it from -- and there are -- there's genetic flow
10 and wildlife moving through these landscapes in -- in these
11 lower-density kind of neighborhoods, and we like to see that kind
12 of density preserved and carried forward.

13 ZONING EXAMINER: Okay. Is there anything else you'd
14 like to say at all or -- I -- I think I got -- I don't want to put
15 you on the spot. I realize your boss is a former real estate
16 developer in Washington, so --

17 (Laughter.)

18 MR. SPRINGER: Well said.

19 ZONING EXAMINER: Okay. So, without -- thank you.

20 MR. SPRINGER: Thanks.

1 ZONING EXAMINER: You know what I'd like to do? I'd
2 like to take like a five- to seven-minute break, let people stretch
3 their legs, and then ask the Applicant to come up and make a few
4 comments about some of the things that have been said up to now.
5 Okay? So, about five to seven minutes and we'll come back.

6 (Recess taken.)

7 ZONING EXAMINER: There's Ms. Silvyn to -- you may want
8 to kind of address some of these issues that have been raised.

9 MS. SILVYN: Sure, Mr. Mazzacco. I -- I want to address
10 a couple of things and then actually -- I think I addressed most
11 of this in the presentation. So --

12 ZONING EXAMINER: Okay.

13 MS. SILVYN: -- to the extent there are issues that --
14 that you heard that you want me to readdress, I'd be --

15 ZONING EXAMINER: Okay.

16 MS. SILVYN: -- happy to do that.

17 The two things that I want to address -- first of all,
18 Colette Altaffer pointed us all to page 60, and what appears to
19 be a misprint that we -- we all missed. The very top of that
20 sentence says, "Deliveries shall be limited to between 12:00 a.m.

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1 and 6:00 a.m.," and that is incorrect; it's between 6:00 a.m. and
2 12:00 a.m. The idea was it would be -- it would be between 6:00
3 o'clock in the morning and -- and midnight, not deliver- --

4 ZONING EXAMINER: Twelve -- twelve p.m. then?

5 MS. SILVYN: Yes. Yeah.

6 ZONING EXAMINER: No, no, no --

7 MS. SILVYN: Yeah.

8 ZONING EXAMINER: -- is that right?

9 MS. MORALES: No.

10 ZONING EXAMINER: No?

11 MS. SILVYN: No.

12 ZONING EXAMINER: Twelve a.m.?

13 MS. SILVYN: No, 12:00 a.m.

14 ZONING EXAMINER: Yeah, I'm -- I'm --

15 MS. SILVYN: It's 12:00 a.m.

16 ZONING EXAMINER: -- I'll confuse you even more. Okay.

17 MS. SILVYN: Yeah. So, the 6:00 a.m. and the 12:00 a.m.
18 just need to be -- need to be switched around and we'll take care
19 of fixing that.

20 ZONING EXAMINER: Okay.

1 MS. SILVYN: We know what we're intending to do, which
2 is limit deliveries between midnight and 6:00 a.m. There shall
3 be no deliveries during that time period.

4 ZONING EXAMINER: Okay.

5 MS. SILVYN: The center is that -- none of the property
6 is open anyways, so it's not going to happen. But that's what that
7 was intended to do.

8 The other thing is, is that we did get clarification that
9 we can actually add language, which we can do moving forward, either
10 as a condition from you or otherwise, that the backup beeping for
11 these trucks, because of the nature of them, does not have to occur;
12 so they can be turned off and that can be a zoning condition. We
13 can put that in the PAD. So, the one piece of noise that's the
14 potential back on that side for loading is the beeping, we can --
15 we don't have OSHA issues, we can stipulate that those -- condition
16 that those will be turned off. Again, something that we can do
17 to -- to move this -- to move it forward as well.

18 ZONING EXAMINER: Okay.

19 MS. SILVYN: And then whatever you want me -- want our
20 team to address, we're happy to address. There was a lot of

1 information.

2 ZONING EXAMINER: Mm-hmm. And that was -- that was one
3 of them. I -- I wanted to make sure we -- if -- if -- you seem
4 to have an answer for that. And I've dealt with turning them off
5 in other parts of my job, so that's -- that's good to hear. And
6 I would think that anything going forward, you would want to mention
7 that.

8 MS. SILVYN: Yes.

9 ZONING EXAMINER: The Saguaro National Park person
10 expressed some concerns. Has your team spoken to Saguaro National
11 Park, and in what way have you felt that you have responded to them?

12 MS. SILVYN: Sure. The discussions that we've had --
13 and I'll have Linda come up as well if I miss something -- the
14 discussions we had with Saguaro National Park were with some
15 previous administration during the Houghton East Neighborhood
16 Plan, and the concern was the -- was the height. At that time,
17 there was an acknowledgment that this was designated for commercial
18 development and would be developed as commercial. The park has
19 always taken the position that developing any undeveloped land is
20 an -- is an issue, but at the time also acknowledged that this was

1 -- this was planned for the area.

2 The other issue was the open space, and at the time we
3 had the old proposal, they were concerned that we were not -- we
4 were not presenting the -- at least the 20% open space. That's part
5 of the reason we've made the changes we've had. There's been
6 significant changeover at the park in personnel. And I -- I believe
7 that they were at the open house that we --

8 MS. MORALES: Scott --

9 MS. SILVYN: -- that we held, Scott was, and Linda had
10 had some meetings with Scott as well and they acknowledge the --
11 the additional open space.

12 So, you know, our understanding was the park wasn't
13 taking an official position on the project, other than supporting
14 the -- the friends of Saguaro National Park, and I think that was
15 the case until he was called up to the microphone.

16 ZONING EXAMINER: The residential properties that
17 border this property, do they all have walls behind them, the RX
18 one? No, they're open?

19 MS. MORALES: No, not all of them. There -- there are
20 some fences along some of those and I believe at least one of them

1 has walls. On the east side, I -- there are no walls, I believe;
2 is that correct? I'm looking at the neighbors. From what I
3 remember. Along the north, there's a couple of fences and wall
4 and then some of them are open.

5 ZONING EXAMINER: The concern that the gentleman
6 expressed about having a wall and that it's blocking drainage, what
7 -- what do you respond to that?

8 MS. MORALES: Certainly. And we -- we've talked about
9 that, that there is some drainage that comes through there and there
10 would be -- need to be some holes in the bottom of the wall and
11 those would allow that drainage to come through; and that would
12 be in the final analysis as -- as well as we -- when we do the final
13 engineering, how big those need to be and how that would come
14 through; it would only really be at that northeast corner of the
15 site that that would be potentially an issue, I believe. But, when
16 we do the final analysis, we would --

17 ZONING EXAMINER: Is there any way to design a wall to
18 allow wildlife to move around it?

19 MS. MORALES: Well, there -- there are opportunities --
20 and some of the things that we've talked about was we could put

1 some wrought iron in sections of those.

2 Part of the issue that we have is -- is there's some --
3 some of the neighbors that we have talked to really want that to
4 be a solid wall for security reasons, for keeping people out,
5 frankly, and keeping that movement from anybody that's at the --
6 the shopping center to be able move into the backyards of those
7 homes. But -- but that could -- that security could still be kept
8 if we had some wrought iron that would allow the animals to move
9 through, but not necessarily the people. And, again, also those
10 -- for some of the smaller animals they could move through any kind
11 of weep holes or drainage holes in those walls as well.

12 ZONING EXAMINER: Okay. Let's see if I have --

13 MS. MORALES: Yeah.

14 ZONING EXAMINER: -- there -- there was some comments
15 about the curb cutting moratorium. Could you elaborate on that?

16 MS. MORALES: So, when we very first started this
17 project, which was, I believe, in December of -- the first time
18 I was involved is December of 2015 -- 2014. Sorry 2014. Gosh,
19 time's flying. We -- that was at the time when Houghton Road was
20 just about to go under construction. So, understanding that, and

1 knowing that we wanted to be able to work with TDOT to make sure
2 that we were getting those curb cuts incorporated in that -- in
3 the locations that worked for the site, we approached them early
4 on and we had some really productive conversations; that was what
5 produced the letter that discussed the fact that there was a
6 moratorium.

7 One of the -- the only real point of -- the only real
8 issue that we had -- I'm sorry -- was the inter- -- the driveway
9 to the far north of our site. And, if you look on the graphic,
10 you -- you can see that there is a median break that we have drawn
11 in as part of this plan; that -- that was our area that we had asked
12 for that median break to be put in --

13 ZONING EXAMINER: Can you show it again?

14 MS. MORALES: Right in here, yeah.

15 ZONING EXAMINER: Okay.

16 MS. MORALES: We had asked for that to be put in at the
17 time that Houghton was originally constructed. TDOT said that
18 they did not want to do that because they did -- they felt that
19 it might encourage people to make -- try to make that turn and then
20 not have anyplace to turn into until such time as we have done the

1 development; so that part we would have to come back and cut back
2 through that median. And that was the agreement that was -- was
3 come to at that time. There is additional mitigation that we need
4 to do. We can't just come in and do a normal cut of the asphalt
5 and come back, but it is allowed during that moratorium with some
6 extra pavement measures is my understanding.

7 ZONING EXAMINER: So, in other words, you have -- you
8 have kind of an agreement with TDOT to do this --

9 MS. MORALES: Right.

10 ZONING EXAMINER: -- this --

11 MS. MORALES: We had already discussed with them --

12 ZONING EXAMINER: Okay.

13 MS. MORALES: -- and -- and they understand that that's
14 in our plans, to be able to have that driveway cut, and that is
15 important to do so that we don't have to have the U-turn moves.
16 For people coming south on Houghton, it's really important for them
17 to be able to come in and turn there instead of having to go down
18 to the intersection and do a U-turn or turn onto 22nd and go all
19 the way around.

20 ZONING EXAMINER: The -- there was a Plan Amendment last

1 year that you got the height raised.

2 MS. MORALES: Yes.

3 ZONING EXAMINER: What is that height for?

4 MS. MORALES: So, the height is only for the -- for the
5 grocery store, for the anchor store. The other structures would
6 be compliant with the 20 feet. So, the 26 is to the ceiling height
7 with a four-foot -- four-foot parapet, so 30 feet for the maximum,
8 the parapet.

9 Originally, when we had asked for the Plan Amendment,
10 and normally during the -- during the UDC -- I'm sure you're aware
11 that you can go up another ten feet for architectural features over
12 your roof line --

13 ZONING EXAMINER: Mm-hmm.

14 MS. MORALES: -- that was something that was requested
15 by the Council and -- and -- and we took note of at that time, and
16 so we've restricted that height to only the 30 feet for the parapet.
17 So, 26-foot for ceiling height, four feet for the parapet height.

18 ZONING EXAMINER: So, when I'm inside the store, do you
19 know what the height is from floor to ceiling?

20 MS. MORALES: It is --

1 MR. GASTON: Twenty.

2 MS. MORALES: -- 20 -- well, it --

3 MR. GASTON: It changed.

4 MS. MORALES: -- it's --

5 MR. GASTON: So --

6 MS. MORALES: -- 20 --

7 MR. GASTON: -- so the way -- the way it works is -- the
8 reason why we needed the 26 feet was for our mezzanine. We have
9 a mezzanine in our store which has offices, training areas, a bunch
10 of different administrative functions going in our mezzanine which
11 we still are planning to build.

12 So, the height -- the top of our ceiling, the very tallest
13 portion is 26 feet. Now, that's generally at the front part of
14 our building, then it slopes back for drainage, so the back of the
15 building is actually 22 feet. And the building, accordingly, the
16 parapets will actually jog to go down, and the back of our building
17 will probably be about 26, 27 feet at the top of the parapet; it'll
18 be 30 feet at the front of the building --

19 ZONING EXAMINER: Okay.

20 MR. GASTON: -- and then on the sides 30 and kind of jog

1 down.

2 ZONING EXAMINER: So, it actually is for a mezzanine.

3 It's not --

4 MR. GASTON: Right.

5 ZONING EXAMINER: -- for like mechanical equipment or

6 --

7 MR. GASTON: Well, it's actually for offices,

8 administrative functions, training and stuff like that, and we --

9 and we may have some mechanical equipment in there as well.

10 ZONING EXAMINER: Okay. Okay. There was some

11 comments about heat islands. Could you just elaborate a little

12 bit? I know you've talked about this a little bit, but could you

13 again put that on the record?

14 MS. MORALES: So, per the PAD, we've increased the --

15 the vegetation requirements for the parking areas to the

16 one-per-four. There's also some -- the additional open space is

17 -- is absolutely going to be --

18 ZONING EXAMINER: When you say one-to-four, you mean one

19 tree --

20 MS. MORALES: One-to- -- sorry -- one space --

1 ZONING EXAMINER: -- one -- one tree --

2 MS. MORALES: -- one tree for four spaces.

3 ZONING EXAMINER: -- per four parking spaces?

4 MS. MORALES: Four --

5 ZONING EXAMINER: Okay.

6 MS. MORALES: -- four -- yeah, four parking spaces, as
7 well as the increased landscape buffers around the site.

8 And the open space that will -- just for clarification
9 -- the open space along the north and the east is to be undisturbed
10 as much as possible, with the exception of where we have to disturb
11 it for the wall. And then where we cut it, we'll revegetate with
12 native and natural vegetation in those -- in those little bitty
13 areas that we have to disturb, but everything else would be natural.
14 I think there was a speaker that had -- had mentioned something
15 about grading and revegetation, which was actually our original
16 proposal when we originally met and we heard that feedback, and
17 -- and per the plan we had gone back and done that as natural.

18 ZONING EXAMINER: I'd asked you earlier about the
19 capacity and the ADT on Houghton. Do you have that information
20 or not?

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1 MS. MORALES: You know, we -- we did go back and pull
2 -- we pulled up the -- the traffic report --

3 ZONING EXAMINER: Okay.

4 MS. MORALES: -- and I have the traffic generation,
5 which is actually in the PAD document, too, but --

6 MS. SILVYN: So, here's the issue with that: The -- the
7 traffic report didn't lay out the numbers the way that you're
8 requesting them --

9 ZONING EXAMINER: Okay.

10 MS. MORALES: Yeah (inaudible; no microphone).

11 MS. SILVYN: -- which is ADT before and ADT after, and
12 so the numbers we have are apples to oranges. So, what the -- what
13 the ICE -- what the -- the traffic analysis does indicate very
14 clearly is the before Level of Service and the after Level of
15 Service.

16 ZONING EXAMINER: Is Level of Service B?

17 MS. SILVYN: Yes, B as in --

18 ZONING EXAMINER: Okay.

19 MS. SILVYN: -- boy, yeah.

20 ZONING EXAMINER: Which is -- which is pretty good?

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1 MS. SILVYN: Yes, yes.

2 ZONING EXAMINER: Okay.

3 MS. SILVYN: So, I apologize. We just don't have those
4 ADTs.

5 MS. MORALES: And just --

6 ZONING EXAMINER: Okay.

7 MS. MORALES: -- for clarification, that traffic report
8 was actually done on the larger square footage. We did not go ahead
9 and adjust it back down.

10 ZONING EXAMINER: I noticed that. Okay.

11 MS. MORALES: Yeah, we just left it at that because we
12 were still at Level of Service B even with a 124,000- --

13 ZONING EXAMINER: Okay.

14 MS. MORALES: -- -square-foot store, so we felt that
15 that was still valid for that smaller store.

16 ZONING EXAMINER: So, either of you, I'd asked a couple
17 of the neighborhood folks if we're at the point of agreeing to
18 disagree, if there's any more room here to talk about this. I'm
19 getting the impression that at least not with a Fry's.

20 MS. SILVYN: That's been our experience. And the wall

1 is actually a good example of that. We had approached this during
2 the -- the Houghton East Neighborhood Plan and -- and other -- even
3 as part of the rezoning -- is we'll put the wall wherever you want
4 us to put the wall, and the neighbors can't -- some want wildlife
5 movement, which is a different wall than the ones who want noise
6 mitigation. And so at some point we had to do the best we could
7 with the information that we had.

8 But there's been a general reluctance to work through
9 -- I think what you're -- what you're asking would cause me to say
10 we're at a point where we're agreeing to disagree is -- what the
11 neighbors are asking for now is a completely different development,
12 not a willingness to work on mitigation measures for this
13 development. We've gone ahead and provided the mitigation
14 measures, and I think they go in a large part above and beyond what
15 I've -- I've done on other projects as well, to go ahead and mitigate
16 a lot of that.

17 If -- if I was hearing or had heard issues that I thought
18 -- Fry's going away is not a negotiation; a discussion about
19 mitigation I think is. And I think that we have mitigated -- the
20 issues that you heard during the hearing I believe we have

1 mitigated.

2 ZONING EXAMINER: Okay. You know, I'm going to ask Ms.
3 -- Ms. Schaub to say something. If you'd like to come up to the
4 microphone.

5 MS. SCHAUB: One of the things that we have asked them
6 in the past is, number one, move the gas station to the actual corner
7 instead of in the backyard.

8 Another one would be to remove the secondary PADs and
9 reduce the size of the asphalt jungle, and that was never discussed
10 before, but it would be certainly a lot more appealing.

11 But another thing that's really important that really
12 hasn't gone into detail, and that is the drainage report. And I
13 do have people on my team who is a former developer from New Jersey
14 who is able to actually do those calculations for you, along with
15 the heat island effect going up 600 -- going up two miles and out
16 two miles. What was that, Dan, about six megawatts worth of heat?

17 DAN: Yeah, I can't remember exactly.

18 MS. SCHAUB: Also, the runoff from -- from all the
19 asphalt, from -- from just ten acres of asphalt, would create
20 250,000 gallons of runoff, including car oil, into our -- into our

1 underground system, which there's supposed to be a retention basin,
2 but, according to the HENP, it's not allowed, so they would have
3 to go underground. And that's the size of how many?

4 DAN: Six swimming pools.

5 MS. SCHAUB: Six swimming pools that they would have to
6 put underground in order to have a catch basin underground to get
7 all of the drainage from a rain of -- half-an-inch of rain.

8 ZONING EXAMINER: Mm-hmm. Okay.

9 MS. SCHAUB: So, these are things that -- that we have
10 also discussed and nobody's been able to mitigate those. Thank
11 you.

12 ZONING EXAMINER: Okay. Thank you. Is there anything
13 that Ms. Schaub has stated that you can address now?

14 MS. SILVYN: I think we're at the point of agreeing to
15 disagree. We've talked about why we -- we're -- we can't -- we
16 don't think it's appropriate to move the service station. We think
17 that brings up a lot of other issues, and we believe we've placed
18 it and spaced it and put enough buffering that it's -- that it's
19 sufficient.

20 As part of the traffic impact analysis, the City asked

1 us to provide a drainage report. That drainage report has been
2 approved. And City Engineering reviewed the PAD and our approach
3 with the retention/detention, knowing that a further drainage
4 report is coming, and that was all part of -- of City Engineering
5 review, and that's part of the development package process, so
6 that's coming -- that's coming up next.

7 And we're doing a substantial amount of water har- --
8 harvesting. The commercial rainwater harvesting requirements
9 apply to the site. The -- the amount of open space which will have
10 natural drainage. And then the additional landscaping that we
11 have in the parking lot, which is above Code, is all part of rezoning
12 conditions that acknowledge the -- the heat island effect.

13 Part of the reason that we -- we showed you the -- the
14 Site Plan as well from the Houghton East Neighborhood Plan
15 Amendment, as compared with the Site Plan, is to see the -- we --
16 these are all concerns that we've heard and we've made movements,
17 and there hasn't been much acknowledgment of the -- of that
18 movement. The amount of pavement has been reduced as we increased
19 the open space and made the building smaller. The
20 question of whether there should be two additional retail

1 buildings, that's -- the developer feels very strongly that there
2 is a market there and it's appropriate and it's part of a
3 neighborhood -- the neighborhood commercial.

4 So, all of these are the reasons that I -- I said in the
5 presentation, and continue to say, that we're -- we really are at
6 a point of agreeing to disagree. We believe we have mitigated the
7 edge. We are in compliance with HENP. And we've -- we've done
8 what needs to be done, short of getting rid of Fry's and putting
9 in the -- the actual named retailers that they want, which is not
10 something we're going to do.

11 ZONING EXAMINER: Okay.

12 MS. MORALES: If I made add, too. There are -- there
13 were a number of other people that were involved and were against
14 this project during the Plan Amendment that, with the addition of
15 the wall, with the addition of the open space, have said that
16 they're supportive now or they're not as concerned about it, and
17 they are not here tonight and -- and have actually changed their
18 mind. There's -- there's this other group that has not. So --
19 so, it's not like it's been the same, you know, amount of dissension
20 the whole time. We have addressed some people's concerns and have

1 mitigated for those.

2 ZONING EXAMINER: Okay. Well, you know, I'm not -- I'm
3 not -- I'm not going to kind of like go back and forth. I -- I
4 just wanted to hear -- the public hearing as far as the rest of
5 the folks. I wanted to hear from Ms. Schaub because I take her
6 kind of being the -- a leader out there, and I hope you don't mind
7 that I'm using you to talk to. If you want to make any other
8 comment, Ms. Schaub, you're welcome to make it, but I'm getting
9 close to deciding which way to go here -- I mean, as far as this
10 public hearing.

11 MS. SCHAUB: As for dissension among my group, there's
12 still dissension. They still oppose this. But after two years
13 of being badgered by this, a lot of them have given up and felt
14 that they couldn't fight City Hall anymore, so they are not here,
15 but they are here in spirit.

16 I have, like I said, nearly 1,000 signatures
17 representing people from the eastside of -- the constituents in
18 Ward 4 and Ward 2 that are opposing this. And I think all of them
19 would be hell bent on not passing the new Tax Code that -- that's
20 coming up in May because the City does not -- is not trustful. They

1 do not feel that the City has heard them. They do not feel that
2 the City has kept their promises. Thank you.

3 ZONING EXAMINER: Okay. Thank you, Ms. Schaub. Okay.

4 Anything else from the Applicant team? Okay. Okay.

5 And I'm not really taking any more testimony at this point. I think
6 I've -- I've heard enough, and I think you folks have heard enough.
7 I've heard several issues repeated several times, so I'm kind of
8 at a point where I don't think I can take any more.

9 So, you know, I -- I would consider continuing this if
10 I thought there was a good reason to continue it, but I'm not really
11 feeling that. I feel that we're at the point where a vote has to
12 be taken on this, and it's either up or down, and we move along
13 to whatever is next.

14 So, I'm at the point where taking the testimony and the
15 evidence and the documents provided, this hearing is now closed.
16 And I will provide a Preliminary Report in -- in the next five
17 working days. I thank you all for coming and have a safe trip home.

18 (Conclusion of the meeting.)

19 * * * * *

CERTIFICATE

I hereby certify that, to the best of my ability, the foregoing is a true, accurate and verbatim transcription of the audio recording of Rezoning Case C9-17-02, 22nd & Houghton PAD (Ward 2) (Continued from April 13, 2017, Public Hearing).

Transcription completed: May 11th, 2017.

/s/ Danielle L. Krassow
DANIELLE L. KRASSOW

**ZONING EXAMINER CONDITIONS -
C9-17-02 (22nd and Houghton PAD)**

1. The developer shall include as part of the development's design review committee A non-voting SNP representative to review the wall design for maximum wildlife movement opportunities while honoring the residential property owners' requests for privacy and security. Further, the developer shall develop a plan with SNP to reduce, to the degree practical, harmful interactions between the staff and functions of the development and surrounding wildlife.

2. The perimeter wall along the north and east boundaries shall be designed to ensure drainage occurs in a manner not to be damaging to the adjacent residential properties.

3. The developer shall have a lighting dimming plan approved by the development's design review committee that includes a voting neighborhood representative.

4. The developer shall confirm that delivery trucks shall turn off back up alarms during deliveries between 6AM and 12AM. If OSHA provisions require them to be on, an acoustical analysis shall be performed and if needed mitigation measure shall be taken to reduce noise impacts to the greatest degree possible on surrounding residential property. The mitigation plan shall be approved by the design review committee that includes a voting neighborhood representative and the PDSD Director.

5. The developer shall report to the PDSD director the ability to use cool pavement techniques or other heat island mitigation best practices on the site. If in the determination of the PDSD director the cost is prohibitive for the entire site, cool pavement materials shall be installed in portions of the site that have the most beneficial impact on pedestrians as required by the director.