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#### **CALL TO ORDER**

[Time: 00:00:00]

[No audio]

#### **ROLL CALL**

[Time: 00:00:03]

City Clerk City Clerk Carolyn Jagger: Mayor Jim Lane.

Mayor Lane: Present.

City Clerk Carolyn Jagger: Vice Mayor David Smith.

Vice Mayor Smith: Present.

City Clerk Carolyn Jagger: Councilmembers Suzanne Klapp.

Councilwoman Klapp: Here.

City Clerk Carolyn Jagger: Virginia Korte.

Councilmember Korte: Here.

City Clerk Carolyn Jagger: Kathy Littlefield.

Councilwoman Littlefield: Here.

City Clerk Carolyn Jagger: Linda Milhaven.

Councilwoman Milhaven: Here.

City Clerk Carolyn Jagger: Guy Phillips.

Councilman Phillips: Here.

City Clerk Carolyn Jagger: Acting City Manager Brian Biesemeyer.

Acting City Manager Brian Biesemeyer: Here.

City Clerk Carolyn Jagger: City Attorney Bruce Washburn.

City Attorney Bruce Washburn: Here.

City Clerk Carolyn Jagger: City Treasurer Jeff Nichols.

City Treasurer Jeff Nichols: Here.

City Clerk Carolyn Jagger: City Auditor Sharron Walker.

City Auditor Sharron Walker: Here.

City Clerk Carolyn Jagger: And the Clerk is present.

Mayor Lane: Thank you. We have cards if would you like to speak on any matter for public testimony that are available. The white cards over the city clerk's head right now and now we also have cards if you would like to give us any written comments on any of the items on the agenda. That's a yellow card that she's holding over her head as well.

We do have Scottsdale police officers, Tom Cleary and Dave Schurr with us. They are directly in front of me if you need their assistance. And if there are any medical emergencies, please see our Scottsdale fire representative who is just back here, just about at 1:00 from me, out on the vestibule there. The areas behind the council dais are reserved for council and staff. We have facilities for your convenience over here under that exit sign.

**CONSENT AGENDA**

[Time: 00:01:21]

Mayor Lane: And that is the extent of the business at hand right now. So we'll move right on to our agenda. This is a special city council meeting. So we forgo some of the formalities, but we do have consent items 1 through 6. There are no cards requested to speak on that. Any requests or comments from our councilmembers. I see none at the present time. I would accept a motion to accept the consent items 1 through 6.

Councilwoman Klapp: Move to accept.

Councilmember Korte: Second.

Mayor Lane: Moved to accept and seconded by Councilman Korte. All those in favor please indicate by an aye. Aye. Register your vote. It's unanimous. If you are here for any of the consent items, feel free to stay otherwise, you are free to exit quietly.

**ITEM 7 – PLANNED BLOCK DEVELOPMENT OVERLAY DISTRICT TEXT AMENDMENT (5-TA-20150**

**ITEM 8 – SHOEMAN OFFICE BUILDING REZONING (7-ZN-2015)**

[Time: 00:02:17]

Mayor Lane: Moving on to the regular agenda items, they are items 7 through 9. And we will be taking -- we will be taking items 7 and 8 together for presentation purposes. And this is item -- item 7 is a plan block development overlay district text amendment, A-TA-2015, and we have Dan Symer here for that and that goes in conjunction with the Shoeman office building rezoning 7-ZN-2015 with Dan presenting on that as well. Mr. Symer, please.

Senior Planner Dan Symer: Dan Symer, current planning. Today we have two cases before you. Item 7 is a text amendment to the planned block overlay and item 8, which I will start off later is a rezoning case to the downtown district. First case before you today, item 7 is a request to amend the planned block development. It's to allow building heights for rooftop appurtenances of 6 feet to be added if they are set back a minimum of 15 feet. As they pertain to the bonus provisions, any roof top appurtenances are included in the calculations for the bonuses.

A little bit of jack ground, back in 2012 of November, the City Council approved the recommendations of the Downtown Task Force, Development Review Board, Planning Commission and other public comments as it pertains to building heights. At this time, the building heights were amended to allow building heights inclusive of roof top appurtenances. So it was an absolute height. In other words, the public would know and the applicants would know what the absolute height they are allowed to work within, and that established a box.

This request is to amend those heights to allow the appurtenances to be above those for a maximum of 6 feet. As you can see in the chart before you, the purple is the existing, and the light green is the proposed with the 6-foot appurtenance addition. And these are building heights without bonuses.

In the downtown core, in the downtown area, the height would increase from 40 to 46, old town west, West Main, and Craftsman Court, those heights would go to a maximum of 54. Civic Center, those are the areas south of the canal, they would go up to 72, and the medical, which is, of course, the hospital and the regional which is north of the canal, that would be a maximum of 90.

Now, those are base -- base heights without bonuses. With the bonus provisions, the downtown core areas which is old town -- excuse me, Main Street, Craftsman Court, 5<sup>th</sup> Avenue, those don't change. The other areas when you incorporate bonus heights, they do increase all the bonuses up an additional 6 feet. So they all increase as indicated in the red box, and the regional and medical also increase with an additional 6 feet.

As it pertains to the building height bonuses, that additional 6 feet would be inclusive into earning your bonus provisions and they would have to provide additional plans. It's to provide public bonuses and benefits.

What does that really mean? As it pertains to the project before you on the next item, the building heights is proposed at 90 feet and as you can see with the red arrow, this is the maximum height of the building without the roof top appurtenances. As it pertains to this building, the 6-foot encroachment above that is in the small little yellow gold box for 6 feet. So it's fairly minimal. The Planning Commission did recommend approval 6-1 back in February.

The second case is a rezoning case for the Shoeman office building on the southeast corner of Shoeman Lane and Scottsdale Road as a request from central business district and highway commercial c-3D.O. for the downtown district, planned block development downtown overlay. The proposed development is approximately 200,000 square feet office building with a proposed building height inclusive subject to approval of the text amendment of 96 feet. The proposed building is providing 683 spaces which is a ratio of 3.3 per thousand which is the code requirement, but they are providing an additional approximately 300 spaces which is 4.7 per thousand.

Now, as we have heard through recent discussions that the trends of office have been moving from the 3.3 for standard office to a more condensed office use to a -- excuse me, a 6 to 7 spaces per thousand. But as it pertains to the city's code, they are providing additional spaces.

As indicated earlier, the site is located open the southeast corner of Shoeman Lane and Scottsdale road just north of the Galleria. The primary uses in the area are all commercial uses with the exception of the residential at the Waterfront. The general plan for the mixed use by the general plan, and the downtown plan is also multiple use type two. As it pertains to the city council's criteria, it's 9 standard general plan criteria when evaluating the zoning case but in addition, the plan block development does require consistency with the general plan and the downtown plan. It also has

provisions when you are adding land uses, but this application is not adding any. So it's not relevant. But it is requesting bonus provisions and we'll go through those in a slight moment as they pertain to the public benefits to achieve additional floor area and building heights.

The floor area that they are requesting is 46,000 approximately in the building height of 30. To achieve this, they are proposing to develop the building in compliance with the city's green building program. In addition, they are proposing enhanced streetscape improvements which I will go over a little bit more slightly. And they are proposing a contribution to the downtown special improvement trust fund approximately \$160,000. That's money unallocated. The city council will have the right to allocate that money for its purposes in the downtown area, but in a specific area, which I will show you later.

Currently Shoeman Lane is a pretty non-descript street. Developed in the '50s and '60s. It's all angled parking right now. With the proposed development, they will be encroaching fairly near to the street, but fairly consistent. At the lower level along the main building, they are having arcade plaza but the building above is above that area. To achieve a downtown-style setback, they are proposing to change the angled parking along the streetscape to a parallel, within enhanced streetscape appearance. As it pertains to these improvements, they do not get any bonus provisions for these with the exception of pedestrian lighting, benches and receptacles and metal tree grates. Any of the other improvements are requirements of this development and they do not get bonuses for those.

Through the negotiations with staff and the applicant, to enhance the streetscape appearance of Shoeman Lane and bring it up to a more modern day Scottsdale appearance, the applicant is proposing to reduce the amount of parking on the north side from an angled to a parallel, increase the landscaping and provide streetscape improvements and, of course, the additional pedestrian lights and benches and metal landscaping. These issues, these items do get bonus provisions which is approximately \$400,000 worth of improvements.

As part of that, I reference that they will be moving some of the parking and removing the angled parking to parallel. They will be removing approximately 18 spaces and they are going to offset that cost or those spaces by contributing to the city approximately \$230,000 which can be used for a future parking solution in this area, and it does say for the development of a future parking structure. And it is within this blocked line that this cannot be used anywhere per the development agreement. I did reference earlier about the approximately 260,000 special improvement money and that money would be limited to the council's discretion in this area also.

This is the proposed building that's being proposed. Some items for your contribution, the city council, we bring forth some of the guidelines that we presented to the development review board and the Planning Commission about maintaining an urban style architecture. A form that is apparent, that reduces the bulk and the size, the step backs max and it's at the second and third level and that's with this particular requirement there. So that's the building again.

Staff did recommend to the development and review board that the upper part of the building be set

back approximately 10 feet although the board did recommend to the city council and to the Planning Commission approval without any modifications. This consideration is still in that we would like you to consider, although the board did recommend no modifications. With the final item, the applicant and staff has agreed to a stipulation modification that we have come to, which is the 75% of the building glass should be max -- that should be the max amount. We did agree to change that to 80.

So if there's any recommendation today for approval, please incorporate this recommendation that staff is supportive of. And that's the end of staff's presentation. And I will hand it off to the applicant.

[Time: 00:13:40]

Mayor Lane: Very good, Mr. Symer. Would the applicant like to speak?

Adam Baugh: There we go. Thank you. I appreciate your time. I certainly appreciate what you do. You see a lot of cases come before this body but more importantly, some of them have significant importance. I hope that you consider this case being one of those ones of supreme importance. For me, it's a luxury to present a case like this. I don't have the breadth of experience like some of my cohorts have, but when you see a case like this -- excuse me, Adam Baugh, 2525 East Arizona Biltmore Circle. All I needed was the one finger in. Many ways, it's a luxury to me because it's a chance to bring the very thing that this council has been encouraging in this area, Class A office and two, the type of architecture and design that really sets Scottsdale apart from the rest.

But the first part, let me get into a little bit and I think Dan did a fantastic job. So I will try my best to accelerate some of my presentation points. But let's talk about the text amendment first and foremost. When the city considered the adoption of the hard cap of 90 feet in this area, as the recommendation from the task force, I certainly understand the impetus for that. In many ways, it's a common conflict experienced all across the valley in every jurisdiction. People have a hard time distinguishing between the roof height and visual height which is something that you see from the street and in many ways I think they are both the same but they are not. I think for the task force said let's make it clear and put 90 feet on there. And this is a great idea, but sometimes even the best laid plans don't anticipate some of the unforeseen intended consequences and I think that's what this application is about for us. We can certainly appreciate the decision that was made to put a hard cap on here but we think that this application and the proposal we have before you now actually corrects and solves one of the unforeseen consequences of that decision. As you see here, that decision doesn't take into account things like appurtenances.

And I -- the best way to explain to me is think of a circular exhaust fan. It may be only 8 inches tall. That in itself would exceed the 90-foot cap or 3-foot antenna or in our case 72-inch elevator overrun. Now, while those things may seem insignificant to the overall building height, the unintended effect is that it would lop off an entire floor, in this case, about 31,000 square feet of gross -- excuse me, of leasable, occupiable floors. Something that when you are looking to attract Class A office tenants and you think about the employees that that generates and the economic revenue that that can bring, something as simple as an exhaust fan or in our case an elevator overrun, we think is unexpected,

unforeseen and probably an unintended consequence of this. There is loss of valuable employment space.

[Time: 00:17:00]

The result if we were to address this would be to decrease our floor-to-ceiling heights and as you are trying to attract Class A office into this area, that's one of the primary standards that they have. And so if we are to make those changes we don't feel like we can attract the same type of tenants in this area and we believe this is an impractical development constraint.

When I think about what the very intent of the code was, at the end of the day it was to make sure that the visual height does not exceed 90 feet. And with the proposal that we have outlined and the criteria we have in place, we think we can accomplish that same very intent. It's very limited in scope. It's not a citywide impact. We are talking about something that's insignificant, measured in only a matter of inches. Our proposal is no more than 72 inches and it cannot exceed nothing more than 20% of that roof area. And to make sure that it's not seen from the streetscape, we have offered to put it back, a minimum of 15 feet. And then finally, it must be screened from the adjacent rights-of-way.

So in the intent of this cap was to make sure that the building height didn't exceed 90 feet visual from the street, the proposal that we presented before you today accomplishes the exact same thing without any net impact, but what it does is it has a tremendous benefit, a, it allows development to achieve the very intent that the code was intended, and b, it removes sacrificing an occupiable leasable floor area. It's not a citywide impact as I mentioned previously. It will only apply to areas of PBD which is primarily in the downtown area. And as you are well aware, PBD zoning comes before staff review and city council. So essentially you can evaluate these on a case-by-case basis and make a determination on each case's own merits.

The best way to explain this is look at this garage right here. This garage is not 90 feet tall. But I think it's an important example for illustrative purposes. If you look here at the top corner, you will see the tallest part of the structure is an elevator overrun. It's the mechanical equipment at the top that pulls this up. Let's presume that the height of the garage was, in fact, 90 feet. This little red square area here about 100 square feet or so would be enough that it would sacrifice the entire top floor of this parking structure if it had been 90 feet tall. I think that's probably the best example of what we are trying to accomplish here.

What's contrasted from this exhibit, versus our proposal is 9 red areas in our proposal would have to be to the interior of the site so that it would not be visible. There are other roof top appurtenances that are not seen and we think we would have the same type of that appearance.

In short, I think you will find that our proposal is actually more restrictive -- the city's development plan for this year is more restrictive than what you see in other parts of the city. Your typical ordinance has a building height that doesn't include appurtenances and then even in your planned airpark corridor you allow up to 35% of your roof for appurtenances. In other areas allow up to 50%

and I think our proposal is only asking for 20% but I want to remind you again, we are simply asking that it be located more to the interior of the site, that it be no taller than 6 feet. So that way you can ensure that at no point will it be seen from the visible streets.

When I look at this proposal, I go, it makes good sense. A, it achieves the public benefit because it keeps the same building height that was intended for this area, but, b, it enhances this downtown area, because it attracts a development that creates the very vision you are trying to accomplish with Class A office without sacrificing an additional floor or potential employment opportunities.

[Time: 00:20:53]

I guess I will proceed into the next part of the presentation, which is the actual development proposal before you today. I love this project. It's a fantastic project and when you look at this corner, this is one of the last corners to really develop in this area. And with all the envisioning that this city council has established in this area, you have a fantastic night life. Fantastic tourist destination and shopping opportunities. We have seen how attractive Scottsdale is. The one thing that really needs in this area, though is Class A office and while this area has had tremendous successes, it still needs a little bit of balancing of uses and we think this Class A office is exactly the type of development that this council has been encouraging and would like to see here at this project. And we think this use, coupled with the other uses that are already in this area create a dynamic synergism and we think the project as designed will be a tremendous compliment to the area and the overall long-term projections for this city of Scottsdale.

You can see the area in red hear and some of the developments that are around had to give you an idea of its context and setting. 2.6-acre site. 191,000 square feet of Class A office but in many cases what is also really cool, it activates the bottom floor, not with office but with some retail. round floor retail and restaurants and you see pedestrian movement and pedestrian activity, lively environment so it's not just a sleepy Class A office, but it really has some activity on the bottom floor. And for us, it's a bit of a luxury here.

I know how difficult it is with parking in downtown Scottsdale. I know it's been a problem in this area and this project does not solve that problem. But this project does not increase that problem. This project solves its own parking problems on its own site. As Dan Symer pointed out, your parking requirement is 3 per 1,000. And our proposal is about 4.75 per 1,000. 970 parking spaces which far exceeds what your minimum code requirements are.

Why does that matter? As we were evaluating this project and looking for the type of employers that come in, they started reaching out to prospective users and lessees would be. You can't afford to make mistakes. You must ensure that there's sufficient parking on the property. And as they are evaluating this, and putting together pro formas and looking at the type of rents that they will get, especially with the Class A office, if you don't have enough parking for this development itself, then this development will not succeed. And so we looked at the minimum city standard and then found a way to achieve that. Granted, we had to go below ground. We went three floors of parking below ground at a tremendous cost and expense to this developer to accomplish.



But it shows the level of commitment to the project, and to the city of Scottsdale that not only will they meet the minimum parking requirements but they will exceed temperature and more importantly, they will not create or further exacerbate any of the other issues in the area. We have gone to the DRB and if the vote goes well today, we will be back in front of that body for some remaining details.

We have achieved some bonuses to accomplish the height that we are requesting to discuss the green building program, the improvements to North Shoeman Lane and North Shoeman Lane, in particular, is something I'm very excited about. As you know, whenever you are developing your project, you have a requirement to improve the adjacent rights-of-way. This is one of those rare opportunities where developers want to improve beyond its adjoining area but the area past it.

Here's some perspectives from the project that you see and I will go through them quickly because you have already seen them. There was a comment about the breakup of the building and the variations of the material and the textures and there's some things that we have been able to bring up. As you can see the 191,000 square feet of office, 14,000 square feet of retail below. Three levels of parking above. And three levels of parking below ground. And here's the parking area. Here's the retail. The glass frontage, the vertical louvers and the horizontal louver and here's some imagery that highlights these things. On the linear face, it doesn't give you the right feeling and context. But when you see the 3d renderings, and it breaks up the wall plains and it provides variations and elements something that the DRB is very excited about and is looking forward to revisiting again.

When I think about -- when I mentioned previously the thing that makes me most excited here is Shoeman Lane. Finally an area that has been uninspiring, that's had its own impact, very narrow sidewalks. They are not particularly -- they don't induce pedestrian activity. Finally someone is willing to step up. Take a look at what you see here today. You do have some angled parking.

[Time: 00:26:33]

Mayor Lane: Mr. Baugh, pardon me. We generally have a restriction of 10 minutes on presentation. I don't know if you were informed of that or not. I want to give some license because if you were not informed. I want to give you time. You do have two items. We have put you up for 10 minutes so I will give you some additional time but --

Applicant Representative Adam Baugh: Sure, I will wrap it up. Thank you. I think for the sake of accelerating this, the improvements that you see along Shoeman Lane include 15 feet of expansive pedestrian walkways. That's a substantial improvement on the its current condition. Beyond that 15 feet of the walkway, you have 14 feet of colonnade below. This will give you a good example. When you look at the area from the cars over to the columns, 15 feet and then from the columns to the glass wall, 14 feet and an approximation of 29 feet of pedestrian activity that you don't have today and here's a view from Scottsdale Road with some lively pedestrian activity.

At the end of the day, I have think it's important to highlight, I'm very aware of the concerns of the

Galleria. The Galleria was designed as a mall and is being used as an office project and in some ways is under parked. I want to make clear that the problems that exist with that other problems in the area are not prevalent on this project. Not only do we meet code but we exceed code. When you look at other cities and jurisdictions here's some requirements. In Tempe, you have 3.3 per 1,000 or in the downtown two. In Phoenix, 3.5 per 1,000 in the downtown. No parking requirement. And in Chandler, something very similar, 4 per 1,000. Our project is 142% parked. 970 spaces, 683 acquired.

I will wrap up with this final slide right here. This project is a tremendous investment in downtown Scottsdale. You have a desire and a need for Class A office and we believe we fulfill and meet that need. Clearly this is in harmony and in synergism with a number of other uses already in this area. We do believe that the improvements we are proposing activate, create a very lively pedestrian area with employment opportunities. We exceeded the city parking requirements. It's recommended for approval by staff, by your Planning Commission and the Development Review Board has already seen this. We think that this is the optimal, the most appropriate and the best and highest use for this.

[Time: 00:29:07]

Mayor Lane: We will do just exactly that. We do have some requests to speak to the subject from the public. And then certainly, either respond to that or to our questions. We to have a request by Sonnie Kirtley to speak on this topic, both 7 and 8 and she has donated time from Louise Lamb. Sonnie, will five minutes do it for you?

Sonnie Kirtley: Yes, sir. Good afternoon, Mayor Lane, and Vice Mayor Smith. I'm Sonnie Kirtley, I'm the chair of C.O.G.S. You threw me a curve since we are doing 7 and 8 together. I will speak quickly.

On the text amendment, you know, being a city council appointed task force member is a major commitment. In my 50 years in Scottsdale, I had the honor of serving on many task force boards and commissions. Let's remember the Downtown Task Force 2009-2011, two years of committed service. They invested hundreds of hours going over the current general plan that we have now, as well as the downtown character area. They listened intently to hours of public input from the property owners in the downtown, to the merchants and citizens. And in that, they generated the compromise of raising the building heights and then making all of roof top items within that roof top limit, that maximum.

So as Dan pointed out, 66 feet is 66 feet. No elevator shaft, no TV antennas. No chicken coops, nothing up there! So building heights was exactly what the public was told it would be. That's called prediction. It's predictable. Now our Native Americans plan for seven generations. In Scottsdale, we can't even seem to keep planning decisions for more than five years. As you deliberate this text amendment for another 6 feet, I leave you with this question: What is a unique public benefit that would encourage this council to once again raise the roof?

Item number 8. Again, we're back to guidelines and policies that have been established. This one is called the downtown urban design and architectural guidelines. If we were to do a report card for this project, and first of all, I must make it very clear that C.O.G.S. is very supportive of any new office buildings. They just need to follow our guidelines, our urban established guidelines.

So here's a report card. Failure to achieve the guideline emphasis on avoiding tall vertical faces. 70 feet plus. Failure to step back the upper sections of building towards the interior the site as Mr. Symer mentioned. Failure to achieve a building desire that our downtown urban design and architectural guideline supports, using offsets to change the long horizontal lines. We have had buildings come before us with over 100 feet, just flat space. Indian Bend and Scottsdale Road was an example. Offsetting means that you articulate those walls not necessarily change the materials. You articulate the walls and do offsets. Failure to control the building mass, we see the canyon effect in some cities. We don't want that in Scottsdale. That's not Scottsdale. Failure to provide appropriate traffic bumper buffer for pedestrians along Scottsdale Road.

So in summary, it's disappointing that none of the concerns by staff and the public have been addressed by applicant since the two DRB hearings which I, of course, attended and spoke, nor the Planning Commission. So why is this project on a protected fast track to approval when it does not achieve the simple Scottsdale urban design standards? Thank you.

Mayor Lane: Thank you, Ms. Kirtley. That completes the public testimony on this project. It's time for council if you have questions, comments, of the applicant or of staff to consider them now. I will start with Councilwoman Milhaven.

[Time: 00:33:52]

Councilwoman Milhaven: Thank you, Mayor. I have questions -- I mean, I like the project for the most part and I approve the DRB. After the DRB meeting, I bumped into someone who builds office space. Gee, I see you had a work study to talk about parking and, gee, don't you know that I have to build -- I have to offer seven spaces -- six or seven spaces per thousand square feet in order to attract tenants to my office buildings. And I had just come from DRB and I went I was so excited that this project was over parked given the ordinance and now I have to go back to the conversation that our ordinances need to be revisited and what is the right number.

So I actually reached out to somebody else I know who builds office building and they confirmed, yes, six or seven, but, yeah, Linda, what problem is it of yours whether or not they can lease their space if they don't have enough parking, they can't find tenants. And ordinarily I would say, it's not my place as a city councilperson to decide whether or not is economically viable, but is it appropriate for this corner. However, we have already -- we have already discussed at length the fact that this part of our city is really challenged with parking and if we miss this, it won't just be a property owner not being able to take advantage of its own investment but it will impact surrounding businesses negatively.

So I would like to -- so my concern about this project is how, yes, it's beyond what the code requires.

I'm not convinced that the code is right. I would like us to have a better feel for what is practical, given today's office configurations. So that's one.

And then sort of along the same lines of parking, I know the incentives and the bonuses that they are paying. Those are the Val -- the value of those are driven by formula, if I recall, right? Dan is nodding yes. So the dollar amount is driven by formula, based on what they are getting.

My question would be: Why don't we use all of that incentive to try to support solving some of the parking problem in this part of our city while improving the north side of Shoeman Lane might be really nice, I'm wondering in the money wouldn't be better spent trying to solve our parking solution. So I don't know if that's -- maybe I will let staff sort of respond to that.

Planning and Development Services Director Randy Grant: Good questions. The first is the ordinance, versus the reality. As you are probably aware the ordinance requirement is an accumulation and average of what we expect to see given a category of uses. A very, very, popular restaurant is going to generate more traffic and the need for more -- for more parking with a sit down restaurant with larger tables and fewer patrons and so forth. It's not a magic formula as much as it is an attempt to balance the need for parking with the requirement and the cost of providing that parking.

We have seen a trend towards higher parking requirements in some segments of the office industry, particularly the tech companies that have the smaller cubicles and a lot more people working at one time. They are seeing the need for six or seven spaces per thousand no to lease those spaces out because the space is only as valuable as being able to put people in the work stations. So they see the economic need to provide the additional parking. A typical office in -- in a more traditional sense, three spaces per thousand is -- 3.3 per thousand is adequate and is not over parked or under parked. It's usually very efficient. So part of the dilemma that we have in evaluating these types of cases is trying to predict whether or not the use to a particular building is going to be a more traditional type of office or a more contemporary type of tech office where more parking is required.

I think the applicant is accurate in showing that in other cities, in downtowns particularly, some cities are doing away with the parking requirements all together because they perceive that a parking problem in downtown is a great problem to have. I think that our ordinance is accurate in trying to predict what that balance is, particularly for the small businesses adjacent to the generating uses that will be affected by the parking demand. So the response that we have gotten from the applicant in asking the questions about the actual parking generation is, they believe that they are going to have a requirement that is above what the ordinance requires them to provide. They believe that it's less than what the industry trend is for a typical -- a stereo typical tech office. So they are in between the 3.3 per thousand and the 6 or 7 per thousand. About 4.73 per thousand.

What we have been talking to them about is, is there a way for you to demonstrate that what you are going to be marketing is space for a more traditional office, that won't require as much parking and if it's the tech companies that are responding to your marketing that we can have some additional

protection that you will look for additional ways to provide for that excess demand? So far we have -- we have not completely seen eye to eye with the applicant on that because they firmly believe that their parking requirement is adequate for their use. We think it may be, but it's also possible that some of the tenants that are going to be demanding higher parking spaces are going to be looking at this office building, very attractive building and we just want to be able to demonstrate that if the parking that is generated actually exceeds what they are projecting, that they have a plan for providing it, whether it's leasing spaces, whether it's initiating a transit plan, whether it is shift work that provides people on site at different times. There are a number of ways that you can address that in addition to simply providing additional physical parking. And that's what we are asking them to provide.

Councilwoman Milhaven: That would make me feel comfortable. Nobody thought that the Galleria was office, but it's office. We can't regulate use. You can't say that you have to have a call center or can't have a call center. They will rent it to whatever they want to rent it to. It give me great comfort that if we guess wrong, we have a plan for how we protect the neighbors. Thank you.

[Time: 00:41:15]

Councilwoman Milhaven: Can you talk more about -- right, this is a downtown incentive district case, which means we get some public benefit and while I don't think we can solve our downtown parking problem in this quadrant all together with this, I would like to think that we might also be able to improve the overall parking situation. Could you speak to maybe using the incentive to create more parking?

Planning and Development Services Director: Absolutely, Councilwoman Milhaven, Mayor Lane. As Mr. Symer pointed out in the presentation, the applicant is proposing to pay for the 18 spaces that will be lost by converting angled parking to parallel parking. That's there \$260,000. We are agreeing that that money should go somehow to the provision in the area and if the council agrees to look at the construction of the parking structure on the Stetson lot.

Additionally, there are incentive bonuses. I think it was 268,000 unallocated that could also be used within that northeast quadrant. It could be used for the parking structure. And then there's an additionally an amount in the in lieu parking fund that would be available. I believe that the total all of three of those is around \$600,000, \$700,000. That could be allocated to the construction or the design of the parking structure. The other incentives for public art and so forth are designated in the ordinance and are not as readily available for capital construction projects.

Councilwoman Milhaven: Thank you for that clarification. I see they also get credit for green building. How is that calculated? There's no dollar amount for green building. How is that figured?

Senior Planner Dan Symer: Mayor Lane, members of council, Councilwoman Milhaven, the analysis when the green building program is incorporated was done -- it goes back to how the formulas were allocated at the time, and the cost. And the cost of improving a building from the minimum

development standard to a green building, and that functionality of that -- the functionality, those formulas was coming up anywhere between 12 to 18 feet in height and certain amount of square footage. So we felt comfortable establishing a flat number.

So it all comes down to how much do they want to put into their project? So instead of debating what goes into their project, whether it's solar panels, this, that, the other thing, to achieve a green building, because this becomes highly debatable, we chose when we wrote the ordinance to come up with a flat number since it is a cost to them, and the project architect could probably give you a more general number of what that is. But it's a significant cost that they have to occur to achieve that.

[Time: 00:44:36]

Councilwoman Milhaven: And I see here it says 15 feet in building height. And then the north side of Shoeman, I know the north side of Shoeman still needs to be redeveloped. There's a vacant lot there. Could we get that development to pay for the development on north side of Shoeman when they come forward?

Planning and Development Services Director Randy Grant: Mayor Lane, Councilwoman Milhaven, I think you could. I would draw your attention to the fact that for the amount of money that would be contributed as a result of diverting those improvements into parking structure, the improvements on Shoeman are an immediate impact that we felt when they were coming through had a value that was more than what we could project at a future parking space of a few spaces. So you could do that as we have outlined in the report. We would recommend not diverting that money and doing the streetscape improvements.

Councilwoman Milhaven: All right. I will defer to my colleagues but I would like it to take the time to find a plan b in case we get the parking wrong and I would like us to use whatever bonus money we get from this project to help us fix -- offset some of the parking challenges.

Thank you.

[Time: 00:45:51]

Mayor Lane: Thank you, Councilwoman. Vice Mayor Smith.

Vice Mayor Smith: Thank you, Mayor. I will say readily, I do agree with Councilwoman Milhaven. We need some kind of a plan b to protect ourselves. And I'm also, I think in favor of using the bonus money for the biggest problem that we have downtown which is parking. I know you quote other cities as saying parking is a problem. This would be a great problem to have, but somehow it doesn't feel good here in Scottsdale to have it and particularly doesn't feel good if you are one of the merchants impacted by it.

Let me ask a question. I don't know who I'm asking this of, maybe Dan or whoever wants to answer, but why are we doing these two together? Or maybe more specifically, let me ask the question, will

this text amendment to add appurtenances on the top of a building up to 6 feet, is that going to apply to everything in the future that's built downtown?

Planning and Development Services Director Randy Grant: Mayor Lane, Councilman, Smith, no, it only applies to planned block developments. It would apply to anyone that qualifies for a planned block development. Again, it's 6 feet.

Vice Mayor Smith: I know what it is.

Planning and Development Services Director Randy Grant: Yes. And the reason they are being considered together is only because the second one relies on the first one. The project doesn't come forward if the exception for parking is not approved.

Vice Mayor Smith: I understand that. I recognize the second one doesn't need the first one. The first doesn't need the second one, or something. If we do this text amendment for any planned block development. It will apply to any great number of properties in the future. I mean, it's a change applicable to any similar project in the future without question; is that right?

Planning and Services Director Randy Grant: For many projects, yes.

Vice Mayor Smith: On this particular item, I have great problem in just universally changing something that was the result of substantial study by -- as Dan's said by a task force that was created, the Downtown Task Force. It was studied and approved by the Planning Commission at the time. It was studied and approved by the Development Review Board at the time and ultimately approved by council. And now we have one project, which is coming forward and saying regardless of all of this work that was done, we really need another six -- not 6 feet, 72 inches. We really need another 72 inches on top of our building, and I just don't find any justification for it other than the fact that it -- you know, for the applicant, it would turn it into a grander project, an additional floor, more rental space, greater return on investment. The objective of these development agreements is not to facilitate someone making a return on their investment or renting out an extra floor. The purpose of them was to protect the visual landscape and the livability of the city. A lot of thought went into these. To just throw it out and say we will increase it by 6 feet, I -- I will say it again, I find no justification for it.

And I wish this had come as a separate item because I would vote against it unless somebody can justify it. One building does not serve as a justification for it, in my judgment.

[Time: 00:49:45]

Vice Mayor Smith: I have a second question and this is just a mechanical question. The 970 spots that we're putting in for this, that is the gross new parking spots at this site and what does that consider the 107 spots now behind the building or the 18 that were on the street? Or whatever?

Senior Planner Dan Symer: Mayor Lane, members of council, Councilman Smith, the existing 107

spaces on the site, which are just to the east on the map, where it says site, those will be removed. And will not be reincorporated into the project so to speak, since they are providing more parking than required. The recent construction of the two additional levels on the Galleria existing parking garage to the east of the building there, was 235, minus 107, so that brings you about approximately -- I can't do my math. 128 total that the Galleria had added with the removal of these 107. So the spaces as anticipation of that, this construction were incorporated into the new development of that garage. But overall, the spaces of -- will not be incorporated.

Vice Mayor Smith: And if I'm confused, probably everybody watching the movie is confused as well. If we build the building as presently contemplated, it will wipe out 107 parking spaces behind the building, and 18 spaces on Shoeman Lane; is that right?

Senior Planner Dan Symer: That is correct.

Vice Mayor Smith: Okay. And the 970 that are touted for the project is the number of spaces that will exist under the building after it's constructed?

Senior Planner Dan Symer: It would be under --

Vice Mayor Smith: Under and above.

Senior Planner Dan Symer: Under and above, yes, that would be correct.

Vice Mayor Smith: I guess I think a more transparent way to have talked about these parking spaces is to have talked about the net effect. I mean it sounds to me like we are getting 970 new spaces and we are losing 107 plus 18, 125 old spaces. Now, I hope you throw in the Galleria and what they are doing and adding two floors and whatever, but we can talk about what a lot of people are doing with parking. But am I wrong to simplistically say that that's that way? Today I have 107, plus 18 on the street. Tomorrow I will have 970. It seems to me that I will be looking at the net number.

Planning and Services Director Randy Smith: Mayor Lane and Vice Mayor Smith, I'm sorry, you are not incorrect, but --

Vice Mayor Smith: That's all I needed to hear. I'm sorry. Go ahead.

Planning and Services Director Randy Grant: But I think we do have to acknowledge that they did add 230 spaces in addition to the parking that was available in the parking structure for the Galleria. So I think it's probably as accurate to say that we are taking away 107 spaces. We have added -- they have added 230 spaces. We are losing 18 on Shoeman. No question about that. But I believe the net, if you look at those, is they are still gaining parking relative to what was there before, what is there now.

Vice Mayor Smith: I will just offer that if we are going to ignore the 107 spaces that are somehow disappearing, because another project is adding 235 spaces, which is more than 107, and so we



shouldn't pay any attention to the 107 that are disappearing, I mean, maybe we should be looking at the whole complex and their parking situation. I mean, we know we have a huge problem at the Galleria and the Galleria is not 4.7 or whatever the number is. I'm troubled by the multiple ways that we are moving the parking spaces around to accommodate the end result. I will say again, I think as Councilwoman Milhaven said, we need some reassurance that this project is not going to exacerbate the parking problem that we already have.

[Time: 00:54:15]

Vice Mayor Smith: I guess a third question that I have is to Dan, perhaps since you had followed this project from its inception, I know that a number of changes were suggested to the project at the December 3<sup>rd</sup> design review board meeting. I think other comments were made at the December 17 design review board meeting and now here we are at council. And my question to you is: If you went back to the project as it was on December 3<sup>rd</sup> or as it was presented to the design review board first at that time, can you tell us what changes have been made to the project since that time to respond to any of the concerns?

Senior Planner Dan Symer: Mayor Lane, members of the council, Vice Mayor Smith, the -- ultimately the architect would be able to more superbly answer that. Most of those comments were not addressed. They did provide additional vignettes to explain how the streetscape could be more enticing for the development. I think that's a fair analogy to that, and incorporation of those spaces there. Although, none of the comments about the building massing has changed. The building massing and those comments have not changed since the December 3<sup>rd</sup> meeting.

Vice Mayor Smith: So this project caused concern to some who heard it, certainly caused concern to me because it was ignoring many of the design aspects that we have for very sensible reasons in the city. It was ignoring the whole idea of having step backs or tiered effect or whatever the -- whatever word one puts to it, but it's to get away from the -- the building mass, the size and the bulk, the apparent size and bulk of the structure. We also had -- and so if they haven't done, it I'm not sure I'm any more comfortable with this than I was to begin with.

The other concern that we expressed, I know, of some of the members of DRB on December 3<sup>rd</sup>, was a concern that the setback from Shoeman Lane was accomplished not in a realistic sense of setting the building back, but in a fairly artificial sense of simply moving the curb further out. The setback is supposed to be a setback from the curb. There are two ways to accomplish, that either set the building back or move the curb. And the solution I think that was opted by the client or the applicant was to simply move the curb. And to create a walkway underneath the bulk of the building, which now hangs over the Shoeman -- whatever that, is the sidewalk or whatever it is. But the point is it didn't seem to me that that was the spirit of the ordinance to achieve a setback by simply moving the city's curb, and to take over the street and changing the parking from whatever you call it in-line parking to parallel parking. So I'm not -- I'm -- I'm not particularly pleased that we are seeing the same project here many months later, with absolutely no change and I'm not really talking about responding to changes that I might have.

I'm no expert on all of this. I can read the ordinances and I can read the staff report that says these particular features have not been complied with and I don't know whether the applicant thinks it's not necessary or they have got such beautiful project here that we should just fall all over ourselves but I for one am not willing to compromise on the development standards, nor am I willing to overturn the height limitations that were set by the council and its governing bodies many months ago -- many years ago.

Mayor, I will turn it back to you.

[Time: 00:59:00]

Mayor Lane: Thank you, Vice Mayor. I have got a couple of questions and comments I would like to make myself. One goes to something that's already been mentioned and bring public testimony as well as from here on the dais and that is -- and it's not -- to me, 20% of the surface area of the roof 6 feet or 72 inches, that's not the thing that concerns me. I do believe that there was an attempt to communicate a visual height of 90 feet. A practical application of the property does require for an overrun on the elevator or otherwise, I don't see that that's something that would impede that. The intent seems to be visual of 90 feet. That's not my concern.

But I am bit concerned as to whether or not -- and the fact that DRB mentioned that the issue of the setback, the 10-foot setback, but didn't go any further than that to say whether that was a problem for them. But in that, it's noted that that setback to the upper portion of the sections of building, provide a building step back on the north elevation and conformance -- in conformance with the downtown plan and the downtown urban design and architectural guidelines seems to me to carry a little bit more weight than just a statement to the effect that it was not -- it was not considered.

The other is -- and it's become somewhat obvious when we talk about the enhancement and the reconstruction at \$416,000 and I know that incorporates a number of things, some which we may have difficulty quantifying. So I'm not sure exactly how the 416 comes about, but since it does include compliance with the setback by moving the curb, which I think has been acknowledged by just about everyone on this, this is certainly an enhancement to the building and a building that the builders and the owners would like to have. I don't see this as something of a bonus to the city, as much as it is a bonus to the property, and the city is actually participated in that. So concerned about both of those items.

But more than anything else I suppose, we have a big problem in downtown that relates to parking. And we don't have it all figured out quite yet, but we do have somewhat of a unique situation in Scottsdale in that we have free parking. And for many years, we have had our merchants paying to funds either by leasing and/or buying spaces to build parking garages for free. And the reason we are different than other communities when it comes to down to the idea as to whether or not -- where would it impact the city if, in fact, it was -- the building was under parked, well, it really is plainly because we have this amenity available and paid for by others that can be imposed upon when a building is under parked. So if becomes a real concern to us, and it's something we are having to struggle with and we are trying to determine some new -- new approaches to it. But we are in a

transition point. So I would have to say and I would agree with Councilwoman Milhaven, that this element alone needs to be looked at and we really need to weigh what the bonus of the additional 30 feet or so, whether or not we're looking at true mitigating issues for the city's and the public's benefit with some of these numbers. But, again, first and foremost, I'm concerned about whether or not ultimately these monies shouldn't be applied to parking primarily.

And some of the rest of this is something that I think that would be upon the builder to build and to make for the benefit of his own -- his or her own property -- the owner's property. So what I would -- what I would like to see really is a little bit greater determination of what we are doing. If we are not calling out for the setbacks, is that not an additional bonus? Because it's additional square footage, and it's not in compliance as it's read here. It's not in compliance with the downtown plan and the downtown urban design and architectural guidelines and I'm not sure exactly how you quantify the value of that -- the -- ignoring of that particular thing. So I guess what I'm concerned about is not -- not the item 7, but it is a concern on item 8 that we have a true plan as to how we deal with this.

I think it was mentioned previously about somehow or other the city really somehow would be trying to determine where you market this product, where you market this to, and to whom, and what kind of businesses would be are involved with it. We have no capacity, nor in I desire to be policing some kind of a tenant marketing program and so that's not in the cards for us at all, and it's not even something we could even do effectively, if we chose to do it. So I'm -- we're not in that business and I wouldn't even come close to suggesting that. But I am concerned enough about it because I do know that at least the interested parties that have indicated an interest in being tenants within this building and within these structures as it's been said by the owners, really mirror some of the exact same kind of applications that we are looking at in the Galleria, which has caused us to certainly have a higher need for parking than was -- certainly as it was originally indicated for retail center, but even on 9 normal estimate of what you would have for a tenant in a commercial office building.

[Time: 01:05:29]

Mayor Lane: Randy, I will ask a question on this -- in this regard. Is there some equation to the number of occupants of a commercial office building on a -- where we could take it to a square foot -- 1,000 square foot basis, if it can be determined by division, of course, as to how many tenants are in a building and then how many of those tenants would essentially occupy 1,000 square feet? I mean, this is irrespective of time -- of time of day or otherwise. But what would -- is there some calculation to determine, let's just say -- and I don't know how these numbers actually work out, but that there were 25 people per 1,000 square feet. Now that would seem like a crowded room, almost shoulder to shoulder. Does that translate into a parking component? Is there any calculation that we look at or have we looked at in that regard?

Planning and Development Services Director Randy Grant: Mayor Lane, it's very difficult to mix the two. I mean, you can talk about the number of occupants and try to determine how many of those are going to be driving and therefore how many spaces are going to be needed. Typically we have looked at these types of occupancy issues as square footage. And assume that in a -- in a traditional

office environment, you are going to have 150, 200, 250 square feet per person, you know, accounting for hallways and that type of thing. On the other hand, we have a cubicle type offices that are 100 square feet.

Mayor Lane: Well, let me interrupt and pardon me, Randy. I know where you are going with this explanation and maybe it's -- you just gave me a bit of a clue. 150 to 200 square feet per person. Square feet per person. So if I have 1,000 square feet and it was 200, that's an easy path for me. There would be five people. And we are currently at 3-point -- is it 3.33 or something like that?

Planning and Development Services Director Randy Grant: That's correct.

Mayor Lane: So we are at 3.33. So someone has assumed -- that's three and a third people that will be in need of a parking space.

Planning and Development Services Director Randy Grant: 300 square feet per person, yeah.

Mayor Lane: No, I was using the 200 and 1,000 square feet, that's five people, 333 -- 3.33.

Planning and Development Services Director Randy Grant: Yes, sir.

Mayor Lane: Okay. But that's not been working for us. So I know that this projected to be 4.73. So that's obviously a little bit of a different equation. So it's maybe one per 100 square feet or something along that line that we are working with right now with this equation. So I guess really what I'm concerned about is whether or not we have some facility to be able to make sure we are protecting that parking that's outside this realm and I don't know that there's not another sideline to this, and that one of the concerns we have had when we have talked about a building, building for their tenants and providing public space and I'm presuming there's a certain allocation to the tenants and some allocation for public parking in this plan?

Planning and Development Services Director Randy Grant: Mayor Lane, it's all available for the tenants.

Mayor Lane: It's all available to the tenants. Okay. So there's no public parking component for it at all? That's a little bit of an additional concern when we talk about the 18 spaces and the retail that's down below and we're talking about square footage and total for the entire building, not just office, but for the retail that's down on the main floor. All right. Let me hold on to that for a minute.

Councilman Phillips.

[Time: 01:09:29]

Councilmember Phillips: Thank you, Mayor. I guess I would ask Randy some stats. How high is the Galleria?

Senior Planner Dan Symer: Mayor Lane, members of the council, the Galleria, the majority of the Galleria is approximately 50 feet, 55 feet to the top of the roof, and then another couple feet for parapet. Although on the north side, there is an elevator and mechanical -- I don't know if it's elevator, but it's for the wireless communication facilities on the northeast side of the site which is up close to 90 feet. So if you are looking south driving, and you see the Galleria and you see this big thing on top of it, that's the mechanical for the -- mainly for the wireless communication that required that height that's up there.

Councilmember Phillips: So that's like five stories, plus appurtenances is that what you are saying?

Senior Planner Dan Symer: Approximately, yes.

Councilmember Phillips: And the buildings north of, that where it says office. I mean, what height are those?

Senior Planner Dan Symer: Mayor Lane, and --

Councilmember Phillips: Those are single story, those are maybe two-story, correct?

Senior Planner Dan Symer: If I just go to the first red office, north of Shoeman, that's a two-story building, that's approximately 35 feet. The office building to the further north of that is also -- that's on a slope. It's on one side here, hitting close to 36 and the other side close to 30. The overside overruns on the W Hotel are 83 feet. The top of the building itself is 72. And the Waterfront which is off to the side, the Water Towers is 150 one and a half feet.

Councilmember Phillips: We see best of it, the mixed use, they are all mostly single story, I believe.

Senior Planner Dan Symer: That is correct. I would say they are the 18.

Councilmember Phillips: So this particular project would be taller than the W Hotel.

Senior Planner Dan Symer: Mayor Lane and members of council, you are correct, this building will be approximately 7 feet taller than the top of the mechanical for the w hotel.

[Time: 01:11:47]

Councilmember Phillips: Okay. Well, some of our other councilmembers and the Vice Mayor mentioned these comments already but I will bring it up again. Burt the idea that the text amendment to allow the 6 feet, it sounds like a little bit. I mean, I understand the applicant's side of things, that the 6 feet can kill a whole floor, but I think that's what they knew a long time ago when they decided that because the point being, when you want to build a five-story building, you -- you get those four floors and you want to build six, you build the five floors. This way you get the extra floor.

There's two ways you can look at it. One way you can look at it as you lose a floor or the other way, we are keeping you from gaining a floor. I think that's what they were thinking about back then to keep them from getting extra floor, that extra height because you will get another 10 feet by giving another 6 feet. So not that I know what was going on in their mind at the time, I assume that that's what's going on.

I would probably consider this text amendment if it was just limited to a 3 or 4 story building. But when you get up to 7, 8, and 9 stories, you are really pushing the environment and one more floor, you can really tell the height. You know, 3 or 4 story building under 6 feet is not a big difference. And I understand the 6 feet is in the middle of the back. It's not the 6 feet but the extra floor that you are getting that you do see. So that's the other point.

And then, I wasn't at the DRB meeting but, yeah, no setbacks or steps on the building. I think it's going to be a little stark at this height of a building, at 3 or 4 stories it wouldn't matter but at 9 stories it certainly will. And I don't understand why it wasn't designed with setbacks for steps and I don't understand why DRB didn't push that point but, obviously that didn't happen.

So I'm not in favor of a text amendment for that height, and I'm not in favor of the building just because of the height and the setbacks. It will look like a giant tall cubicle. And to be that high, to be higher than the w, with nothing else surrounding it, that is anywhere that high, you know, I'm afraid it will stick out like a sore thumb. And I'm really sorry because I really want to see something here. And I think you have -- for an applicant to come along and have a great project, and want to do something like this is great, but at the same time, you don't want to say, we'll take whatever comes along and I just feel like this just isn't here.

And when you listen to the other councilmembers talk about the parking issues that we have too, personally, I feel like it just wasn't really ready for us to come to council yet. It just seems like it wasn't vetted properly.

[Time: 01:14:46]

Councilman Phillips: And I don't know if anybody wants to -- thinking about making a continuance on it. I guess we could even propose that -- that we asked for a continuance on these two items, the planned block overlay, and the Shoeman office building rezoning until staff can work with the applicant to maybe come up with a better project and maybe a plan b on the parking. So that is a motion.

Councilwoman Milhaven: Second.

Mayor Lane: The motion has been made by Councilman Phillips and seconded by Councilwoman Milhaven. Would you like to speak toward it Councilwoman?

Councilwoman Milhaven: No thank you.

Mayor Lane: Okay. We do still have some comments but the motion is on the table. I will go to Councilwoman Korte. I'm sorry, Mr. Washburn, did you have a comment?

City Attorney Bruce Washburn: Thank you, Mayor. I just wanted to ask in the continuance is to a date certain. Ordinarily when we have applicants come in with matters that have been posted, and if they are going to be continued, if we can continue them to a date certain, it saves having to repost and renotice the matter.

Councilmember Phillips: That's a good question, but I don't know if you can have a date certain if it goes back to staff. They are the ones that have to figure out when they come back to us with it, when they have gotten with the applicant and figured out what they are going to do. I don't know how you can pick a date.

City Attorney Bruce Washburn: You can do it to a date certain and if it needs to be continued again, it can be continued to a date certain. It's not end of the world to renotice but we do continue them to --

Councilmember Phillips: So a date certain could be a month from now, 30 days? 45 days?

City Attorney Bruce Washburn: Well, we -- we -- staff and the applicant have previously discussed the possibility of a shorter continuance until April 12<sup>th</sup> and if they cannot --

Councilmember Phillips: So April 12<sup>th</sup> is good?

City Attorney Bruce Washburn: That would be my suggestion.

Councilmember Phillips: All right. I will include that.

Mayor Lane: To the second in.

Councilwoman Milhaven: Mm-hmm.

Mayor Lane: Councilwoman Korte.

[Time: 01:16:54]

Councilmember Korte: Thank you, Mayor. A couple questions about the text amendment. So this is restricted to planned block development, correct?

Senior Planner Dan Symer: Mayor and Council, yes, that's correct, it's only for the planned block development overlay district.

Councilmember Korte: And how many of those do we have in the city?

Senior Planner Dan Symer: The planned block may only be utilized in the downtown and approximately 40% of the downtown that is zoned downtown is planned block development.

Councilmember Korte: So when we say that an additional -- so this text amendment pertains to how many sites?

Senior Planner Dan Symer: Mayor Lane, members of council, that's a difficult question. Mainly because most of the plan block developments have a -- have amended development standards and they are tipped per their ordinance to those standards. So they will not get the benefit of this text amendment. Only those projects that come forward hereafter would get the benefit of the text amendment because they are not -- they are -- they would be stipulated to the new standards. It would not apply to the previous approvals since they are case specific.

Councilmember Korte: And the text amendment pertains to all heights regardless of bonuses earned, correct?

Senior Planner Dan Symer: That is correct.

[Time: 01:18:36]

Councilmember Korte: On to the Shoeman office building. Parking is top of mind. It's been top of mind for approximately two years and we have yet to begin to solve it. On -- help me understand again the spaces. So the owner of the Galleria built another two stories on top of the parking structure, the Galleria, which added 228 spaces.

Senior Planner Dan Symer: That Councilwoman Korte, it added a total of 235.

Councilmember Korte: Okay. 235. I was with plus or minus 5%. I was close. And then the parking lot behind or north of the Galleria is 109 spaces?

Senior Planner Dan Symer: It's 107.

Councilwoman Milhaven: Plus or minus 5%.

Councilmember Korte: Gosh, there it is again. Are those spaces, whether it's north of the Galleria or the additional parking in the Galleria, in the garage, are they open to the public or not?

Senior Planner Dan Symer: Mayor Lane, members of the council, Councilman Korte. The 107 spaces are open to the public currently under a covenant restriction to be available to the public's use free of charge, and valet night. So basically Wednesday through Sunday. The Galleria garage, off the top of my head is 390 some spaces that are available nights and weekends but they do have the right to valet those spaces at a cost.

Councilmember Korte: Okay. So given those time limitations that are open to the public, the owner



of the Galleria has really added 120 -- so taking away 107 spaces north of that site really we have an additional 128 spaces for tenant parking.

Senior Planner Dan Symer: Mayor Lane, members of council, Councilwoman Korte as it pertains to the Galleria alone, the net increase is 128.

Councilmember Korte: Okay. Thank you. We have talked a lot about the number of parking spaces per thousand feet, 3.33 spaces per 1,000 square feet. Per employee, right? Tempe in their downtown is two from what you put up on that? And then downtown Phoenix is zero. So I'm going to assume that -- that those areas are competitive because of access to transportation. Is that true?

Senior Planner Dan Symer: Mayor Lane, members of council, Councilwoman Korte, the answer is in general yes, that is correct.

Councilmember Korte: What other than -- let's talk about how they can be competitive with two versus 3.33 or 4.73 or 6 to 7, what we are talking about here in Scottsdale. How can they be competitive and attract businesses if it is true that unable to attract businesses unless you have enough parking, how can they attract businesses with two or zero?

Senior Planner Dan Symer: Mayor Lane, members of the council, Councilwoman Korte. It's an interesting question. I will lean on Paul on this a little bit. The biggest issue and the biggest benefit that you see for those areas that are pay for parking. So it's a convenience thing and they have structures and having worked on some of those projects in Phoenix in a past life, they predict those for those demands to pay for parking. So it becomes a convenience thing. So which makes mass transit more affordable for certain reasons, which is why they have zero and that's why they also have parking structures for pay. Would you like to add anything, Paul? No.

Councilmember Korte: So a lot of it is driven by the fact that they have a multimodal transportation opportunities and they can -- they can be competitive with less cost?

Senior Planner Dan Symer: I would agree with you on that, having participated in that, yes.

[Time: 01:23:44]

Councilmember Korte: Thank you Mr. Symer. On the 18 spaces that are being lost along Shoeman Lane, those were open to the public 24/7?

Senior Planner Dan Symer: That is correct.

Councilmember Korte: And so I guess that's my biggest concern with this project is that we're -- you know, we have a parking problem, number one. And we have looked at issues and we know that the solution to our parking problems are more than just Band-Aids, and to lose another 18 spaces isn't going in the right direction. Am I wrong with that?

Senior Planner Dan Symer: Mayor Lane, members of the council, the -- it's an interesting quandary, so to speak. The funds that we were getting for this will help us in a long-term solution -- a long-term solution to the issue that's going on. We'll be able to utilize that money towards the parking facilities which will help offset other costs. And surface parking is relatively cheap. We are getting these at an above ground structure parking space. So we are getting them at a fairly -- at a competitive rate for what would offset those costs.

Councilmember Korte: And my last question, councilmember Phillips asked about the heights of some of the surrounding buildings we have to the west of that 151 feet with the waterfront. The W is with the appurtenances is close to 90 being correct? Down just east to Stetson, what is the height of those new apartment complexes? There's three of them.

Senior Planner Dan Symer: Mayor, members of the council, Broadstone is 78 feet and Envy is 90 which is directly east.

Councilmember Korte: Just directly east. So is that with or without appurtenances?

Senior Planner Dan Symer: Those were with appurtenances.

Councilmember Korte: Okay. Thanks. Thank you Dan.

[Time: 01:26:21]

Mayor Lane: Thank you, Councilwoman. Mr. Baugh, would you like to speak to those questions to this point in time or respond to those questions by councilmembers. We do have some others that will be speaking as well, but certainly you are open to do it now and I can certainly give you time to respond to those as well.

Applicant Representative Adam Baugh: Good I appreciate it. I don't know if there's any particular order. I have taken a few notes and I hope it captures as many of the comments you have made. I may have missed one or two.

When the city adopted this cap in the area, clearly the intent was the visual appearance of this area. And I think to protect the visual landscape, that same intent and the same purpose is still achieved here. When our client added the extra two floors on to the Galleria, the 235 parking spaces, he did that with the acknowledgment that he would be developing this project here and losing the 107.

Those 107 have -- are used exclusively for the Galleria parking during the daytime and so that was a trade off in his mind to make the improvements here knowing he would be losing those elsewhere. We have proposed to put the 18 spaces that we would lose on Shoeman Lane. We have proposed to put those in our parking garage, actually. But the city encouraged that rather than do that, we pay the money with the fee in lieu of a future parking structure. So we had an initial willingness to accommodate that. I think it's to do something different and obviously there's value and they can achieve a little bit taller height.

The property is very narrow. I think you can recognize that from the photo before you. The Galleria is 500,000 square feet. We're 190,000 office. As narrow as the property is, it's difficult to do the tiered look.

When I think of downtown parking areas and the type of development and users that you want to attract, there is a competitive issue. And when you think about the development that has to weigh the cost of zero parking requirement, or three per 1,000 or maybe a suggestion that should be greater, that's an important contribution that people have to evaluate as they decide where they want to choose to locate.

Developers have an expectation that they can develop a project per city code. And if the city code says 3 per 1,000, that's not just a suggestion. That's a minimum requirement. But if they can meet that, they have an expectation they can move forward with it. Then they look at what their own user needs are and then adjust that accordingly.

And I think what you have seen presented before you is really a reflection of that. As it relates to public parking, the parking for this project is intended for the project and guests the retail area would be able to park inside here too. So in some ways maybe that would be considered public.

As I think of the downtown code and the text amendment for you and the PBDs, Councilman Korte, it only applied to PBD, but approvals today and moving forward which is a relatively few number of sites and at the end of the day, I'm very confident that we can find a parking solution that makes the development of this project feasible and at the same time addresses some of your concerns. I don't know what is that solution is and I think your solution is something that I would have done myself if you would be so inclined.

I would like to suggest it be a more proximate date and I think a date of April 12<sup>th</sup> would be a reasonable time for us to solve this question before you today. But I guess there needs to be a greater discussion with staff and probably the councilmembers as well, to figure out what that number is. It's hard for us to go to something beyond a 3 per 1,000 because that's the code requirement and anything else is somewhat arbitrary, and for every anecdotal story or conversation of another project that's had a higher parking demand, I can also give you a similar anecdotal story of something that required less, something around the four and I think Jeff and Nielsen partners can give a number of those. I don't know if it's a battle of anecdotal stories. It's something that I think we should continue for a short period of time and how we have a good trigger enforcement to make sure we don't create a bigger parking problem.

I'm confident in this project. I'm confident in the parking we have and the solutions that are in place and maybe they are a couple of things we can work together on to wrap this up a little tighter so that you have more comfort moving forward and the parking will satisfy this and not create any greater problems for the board.

Mayor Lane: Thank you, Mr. Baugh. We will continue with some of the testimony or some of the comments or questions from the council and start with Councilwoman Littlefield.

[Time: 01:31:34]

Councilmember Littlefield: Thank you, Mayor. I have some of the very same concerns that other Mayors have spoken of, regarding both the text amendment and the project. To me, I have a real major project with the text amendment. People have worked very, very hard to work on the overlays and the regulations and the structure of what we want to see in our downtown area and this, to my mind as we read through it and studied it is simply a way to increase the allowable height in the downtown planned block development area.

And it -- and if you are going to build now you build a building to 84 feet. If the height is 90 and then you have 6 feet for your additions. This way you get to build to 90 feet and you have another 6 feet. So it's just adding footage to the height allowed in the downtown area. And I don't think that this is the proper way to do that. It's across the board for all of this block development and I think that's wrong. This should come before council. It should come before planning, DR, on an item by item basis. It should not be coming through on a text amendment. So that's one thing I have a problem with. And that's not just a problem with this particular text amendment. I have a problem with text amendments in general because they can often have so many other intended consequences where you think you are doing something really good here, and then something comes up and can just slap you up the side of the head and I think that we need to be careful on that.

40% of the downtown is in this -- in this planned block development district. I think that's substantial. And I think it's significant. So I don't like having a text amendment with just blankets, the increases in height. So that takes my comments on number seven.

Number eight for the project itself, I have the same problems that many of the other people here have with thinking on planning, parking, how is that going to affect the rest of our downtown area? I also looking at this project, it looks very pretty on paper, but it has no setbacks. And I have a real problem with, again, not following the rules and regulations that have been set forward in our downtown area. So I can't really like the fact that what they have really done is they have just moved the curve. They have moved the public street parking and then redesigned that to be a sidewalk and then that counts as their setback. So they have taken public property and made it their setback and I don't think that's quite how it's supposed to work. And I do have a problem with that. I have a problem losing 18 spaces of public parking.

We all -- all of us understand the problems that we have currently and none of us want to make that any worse. I agree with Councilwoman Milhaven's idea we need to have a plan b.

I also -- I'm also concerned with how exactly we are going to spend this public money. I have think that needs to be looked at a little more closely.

And I will go along with the contingency motion, but I -- I would not be willing to support this at this

time. Thank you.

Mayor Lane: Thank you, Councilwoman. Councilwoman Klapp.

[Time: 01:35:32]

Councilwoman Klapp: Well, I will support the continuance as well, and it sounds like the applicant is more than agreeable as to continue this to April 12<sup>th</sup>. And so just a few comments because we'll be hearing this case again.

I do support the idea that you mentioned having a plan that would deal with a trigger that might cause you to have to plan more parking down the road. So I think that needs to be addressed and the discussions that you will have with the planning staff. But I also would like to know -- I know this was not addressed in DRB, but I would like to know whether or not there is any chance that the upper setback might be considered on this building. The reason I'm saying that is that I think this is a great project but I think visually, it would be more appealing if it had that upper level setback that was in the diagram that we saw. I know it wasn't addressed in DRB, but if you are going to talk about other things related to this project anyway, a little further discussion about whether that could happen, I know it changes your -- how you pencil this project out if you have the setback there but I think it visually would look better to have a break in that side of the building. And so if that can be discussed, it would be -- I have think it would be a good thing.

I personally do not agree with having the 18 spaces moved into the building. I would rather you paid for the 18 spaces, particularly since we are getting the value of those spaces at the value of garage parking rather than street parking. So I think that's a good alternative to pay for them, and put them in a fund for use in future parking.

I don't have -- apparently I don't have as much problem with the concept of adding the 6 feet on the top. I understand that it's setback -- or that -- or it will be 15 feet from any visible corner, which would mean it's basically not visible. So because it's not visible I don't have a problem with the idea of adding the 6 feet to the text amendment. So that's just my opinion on that.

So I think the continuance is a good idea to address some of these issues to come back and talk to us about parking plans, visually how the building might look a little different, and that's probably really the only issue that I would have is that just in thinking about the architecture of this, I -- I think that that particular part of the building might look a little better if it had a little bit of a change in the perspective from just a straight line what we are looking at in the building right now.

That's all of my comments. I look forward to having this come back after some discussions occur in the next couple of weeks.

Mayor Lane: Thank you, Councilwoman. Vice Mayor Smith.

[Time: 01:38:54]

Vice Mayor Smith: Thank you, Mayor. I have a -- a lot of what we are talking about here is the parking. I have a question, is the parking under this, will it connect to the Galleria in any way, or connect to the underground parking that exists on Scottsdale Road or how does that --

Senior Planner Dan Symer: Mayor Lane, members of the council, and Vice Mayor Smith, currently as planned, no it does not.

Vice Mayor Smith: Okay. The comment was made to continuing this to April 12<sup>th</sup> will give us time to solve the questions before you today and I don't know whether it will or not. I get the impression that what we are going to try to solve is this thorny parking problem. And it is a thorny parking problem, but when I stand back from this, I'm not sure -- I don't want to mislead anybody. I don't -- even if the parking were not a problem, I would not be in favor of this. I would not be in favor of the text amendment for all the reasons that we're saying. I would not be in favor of the building which has ignored setbacks and step backs if everybody understands the difference.

But the comment was made by the applicant that they -- you know, they as a developer expect that if they comply with the city's requirements they can do a project. Well, that comment was made with regard to the 3.33 parking, but this project doesn't comply with other guidelines and developmental standards in the city, so I don't know why complying with one forgives the others. It doesn't comply with height, particularly, you know, if they want an extra 6 feet. It doesn't comply with the setbacks. It's like playing a football game. If you don't make the touchdown, just move the goal post and we are just moving the curb here to comply with the rules. It doesn't comply with the floor area ratios. It doesn't comply with the tiered setbacks or step backs, rather, to achieve or get rid of the feeling of bulk and mass.

[Time: 01:41:13]

Vice Mayor Smith: I'm going to make an alternative motion or a substitute motion or I don't know what the term for it is, but I'm simply going to make a motion that we deny ordinance 4241 and 4240. I don't know whether I have to say more than that, Mr. Attorney, or whether that accomplishes it --

Mayor Lane: Well, it is an alternative motion. So it would be voted on first.

Councilmember Littlefield: I will second that.

Mayor Lane: The motion has been made by the Vice Mayor and seconded by Councilwoman Littlefield. Would you like to speak toward it?

Councilmember Littlefield: No. Basically I'm in agreement. As I said before, with a lot of these problems that need to be solved above and beyond just the parking. And that doesn't mean that they can't fix them and come back to us at a later date, but I think that it's going to take a lot more work than just looking at the parking spaces. Thank you.

Mayor Lane: Thank you, Councilwoman. Mr. Washburn.

City Attorney Bruce Washburn: The two items need to be voted on separately. They have been presented together but they need to be voted on separately.

Mayor Lane: All right. So then I would ask the motion maker then if he would --

Vice Mayor Smith: Separate motions for each one?

City Attorney Bruce Washburn: Yes. Separate votes.

Vice Mayor Smith: Well, then my motion is to deny the request for the adoption of ordinance number 4241, which is approving a text amendment to the city of Scottsdale zoning ordinance to amend blah, blah blah, 6 feet height.

Councilwoman Littlefield: So the second.

Mayor Lane: And that only goes to item 7.

City Attorney Bruce Washburn: Correct.

Mayor Lane: And so there's no procedural problem with him making an additional alternative motion for item 8?

City Attorney Bruce Washburn: There can be three motions pending at the same time. So there's the original. There's one alternative and then --

Mayor Lane: I have just didn't want him to get him in a bind.

City Attorney Bruce Washburn: He can do item 8 as a third one.

Vice Mayor Smith: And I do make a motion --

Mayor Lane: Well, let's just take -- you can go ahead and make the alternative motion, as long as they can be at the same time for item 8 as well. Do we have the vote first or this there can be three concurrent?

City Attorney Bruce Washburn: Yes, there can be three pending at one time.

Mayor Lane: So he can go ahead and make the motion on eight.

Vice Mayor Smith: Which one do we vote on first?

Councilwoman Littlefield: Well, let's do seven first then.

Vice Mayor Smith: I have to do number eight first.

Mayor Lane: You don't have to. We can go ahead and vote on this. We will still allow you to do the alternative motion for eight. Okay? Since there is a sequencing issue here as well. Okay. So no further comment. There is the alternative motion on deck to deny item 7. And as has been stated all those -- and no further comments indicated, all those in favor of the motion, please indicate by aye and those opposed with a nay. Nay. The motion fails 4-3, with councilwoman Littlefield, Vice Mayor Smith and Councilman Phillips supporting it.

[Time: 01:44:37]

Mayor Lane: All right. Vice Mayor if you would like to make the alternative motion on number 8, if you would like to do that.

Vice Mayor Smith: I would and I will. So the motion is to deny ordinance -- deny the request to adopt ordinance 4240. The wording to which is embodied in item number 8.

Mayor Lane: The motion has been made and seconded by councilwoman Littlefield to deny item 8 as has been indicated. Seeing to further comment on that, I think we are then ready to vote. Those in favor of the motion, please indicate with an aye. Those opposed with a nay. The motion fails 4-3 with councilwoman Littlefield, Vice Mayor Smith and Councilman Phillips in the affirmative.

So we will go back to the original motion but we do have some -- we had some further comment on that. So those both have failed. So we do have the continuing motion on the table yet.

[Time: 01:45:40]

Mayor Lane: I don't know if there was anyone else who wanted to speak towards this. But I wanted to say a couple of words on the motion to continue, and that is certainly there's a number of things that have been spoken about. In order to at least solidify some of what we are talking about here, if we are talking about both items, moving forward, I would just only say that I have -- I will reiterate that an item seven on the 6-foot over no more than 20% of the roof area and no closer than 15 feet, I see that that's a reasonable thing for us to pass and to amend.

On the item of the 10 footstep back, I see that as an additional bonus and some way or another, that needs to be addressed as to how that is to be handled. Personally, I would have a preference that the step back be maintained and place.

And the final and most concerning item is the parking as we stated, I have certainly stated and others have too, as to whether or not there's some kind of failsafe so that we find ourselves in a similar bind from some of the other properties we have found in similar condition with excerpting a lot of pressure and stress on free parking throughout the community that has been previously paid for by others and set aside. And I don't know how it might be addressed but the public parking for the retail element.



I think that too might end up putting some pressure on the surrounding area which is already stressed, and seeking some solutions. We certainly don't want to do anything that exacerbates it.

So from the continuance motion that's, there I wanted to make sure that those components are things that I think we need to consider in the rework and the reconsideration here. So with that, Councilwoman Milhaven.

[Time: 01:47:44]

Councilwoman Milhaven: Mayor it occurs to me as I listen to the discussion it sounds like most of the reservations are around the specific project, but it seems from the comments of my colleagues that there's support for item 7.

So I will make a motion to approve the text amendment to adopt ordinance 4241 approving the text amendment.

Councilmember Korte: Second.

Mayor Lane: The motion has been made and seconded. Councilwoman Korte, would you like to speak towards it? Seeing there's no further comment on that then, we have that motion and a second on the table. We are ready then to vote. All those in favor of the motion as has been stated, please indicate by aye. Those opposed with a nay. Aye. Councilman Smith. The motion passes 4-3, with councilwoman Littlefield, Vice Mayor Smith and Councilman Phillips opposing.

So that being a motion that was not an alternative but a separate motion then. So the continuance which has been made to both items. Who was the motion maker there?

Councilwoman Milhaven: Councilman Phillips.

Mayor Lane: Councilman, you made the motion, the original motion? And it extends to seven and eight? Okay. Well, now we are going to refine that, obviously just to item 8. Is that okay?

[Time: 01:49:18]

Councilmember Phillips: Now the continuance to item 8, Shoeman office building, rezoning, ordinance 4240, to April 12<sup>th</sup>.

Mayor Lane: Very good. And second? The motion has been made and seconded for the continuance as has been stated and then we see no further call for comments. All those in favor of the motion as expressed, with an aye and those opposed with a nay. It's unanimous to continue item number 8.

All right. Thank you very much for the input from the public and on this and thank you very much for the presentation on the part of staff and the applicant. Thank you.

**ITEM 9 – MEDICAL MARIJUANA TEXT AMENDMENT INITIATION (65-PA-2016)**

[Time: 01:50:20]

Mayor Lane: Okay. Moving on to our regular agenda item number 9 which is the medical marijuana text amendment, initiation 65-pa-2016. The presenter here is Bryan Cluff, our senior planner. He's in position to speak to us on this item. Welcome.

Senior Planner Bryan Cluff: Good evening, Mayor Lane and Council. My name is Bryan Cluff with the city's planning department. And this is a discussion item for possible initiation of a text amendment to zoning ordinance related to medical marijuana use provisions and conditional use. This item was added to the agenda at the council's request with the intent of reducing the number of potential medical marijuana locations within the city. The council chooses to initiate the text amendment, staff is looking for direction on how to proceed with the amendment.

And I will start off with a little bit of background here. The state of Arizona handles all licensing for medical marijuana facilities. And originally, the Arizona Department of Health services base locations and the number of licenses on a CHAA licenses were limited to the license per CHAA area and there are seven CHAAs, however most of the city is covered within two CHAA areas.

And the Arizona Department of Health services rules and regulations for the medical marijuana program do now allow a facility in good standing that's been in operation for three years to relocate into the state of Arizona regardless of the CHAA area. This map here is identifying the CHAAs that are located within the city of Scottsdale. So you can see the majority of Scottsdale is covered in the Scottsdale road north CHAA area and the rest of it is within Scottsdale road south with the exception of a few overlapping areas that are within other jurisdictions.

This map is identifying the locations of all the existing licensed facilities within the city of Scottsdale road. You can see each star here represents a licensed facility that does have a use permit to locate within Scottsdale. And in 2012 and '13, there were two licensed facilities. One was in the southern CHAA here and then one in the airpark area here. The other three facilities that you see in the airpark area were relocated licenses from elsewhere within the state, and were approved within the last eight months.

Currently the city's zoning ordinance allows medical marijuana uses within three zoning districts. The I.1 industrial park district, the CO commercial office district and the SC, special campus district. Within all three of those districts, the conditional use permit is required for the medical marijuana use and this is a summary of the existing conditional use permit criteria and I will just briefly highlight these as I go through. All of the operations need to be within an enclosed building. There needs to be a 500-foot separation between residential district or elementary and secondary school and 1,320 feet separation from a medical marijuana caregiver cultivation use or another medical marijuana use, which would include a dispensary. Approval of a public safety plan by the Scottsdale police department and limited hours between 6 a.m. and 7 p.m. and no drive thru or takeout window or drive-in window is acceptable.

We have developed this map that identifies the potential future locations of medical marijuana within the city of Scottsdale. So on this map, in the area you see in green, would be a potential location that has the required zoning and could potentially meet the situation requirements between medical marijuana, as well as residential districts and schools.

And as part of your packets, staff has prepared a couple of options for discussion for potential text amendment ideas. And the first one could be an increase in the distance between medical marijuana uses. So this is a closer look at the previous map we were looking at. The existing medical marijuana facilities are identified by black dots and the orange circle around them represents the 1,320 feet of required separation. A reduction -- or an increase in that separation requirement could potentially reduce the number of future locations within the city of Scottsdale.

However, with that option, one thing to consider is potential conflicts with existing facilities that would occur from increasing that distance. Currently the two closest facilities to each other are in the airpark area and they are separated by approximately 1800 feet. So with the existing requirement being at 1,320, you could potentially increase the separation requirement up to 480 feet without causing a potential conflict with the existing facilities and creating a non-conforming use for one of the existing facilities.

Another option could be to further limit the zoning districts that allow the medical marijuana uses. Again, this is the same map with a subtle change, which is identifying separately the three districts that allow the medical marijuana uses, which is the CO, which is identified in blue, the I-1 is in green and special campuses in purple. And what you will see on here is the vast majority of the areas that can support locations are zoned I-1. There are some CO and SC, however those are fairly limited. And we do currently have licensed facilities in I-1 and CO. This one here in the southern CHAA is in the CO district. There aren't any current facilities within the special campus zoning district.

And then decision, you may recommend further analysis of regulatory options for staff to look into, and come back to you with discussion later or potentially take no action at this time. So that concludes my presentation. I will turn it over to the council for any discussion and we will try to answer any questions you may have.

[Time: 01:57:41]

Mayor Lane: Thank you, Mr. Cluff. We have one request to speak on this and undoubtedly the council have some questions of you. The only request to speak on this is Ryan Hurley.

Ryan Hurley: Thank you, and good evening, Mr. Mayor, members of council, my name is Ryan Hurley with the Rose Law Group, 7144 East Stetson Drive in Scottsdale. I'm here today for one simple request and I will be extremely brief. If the council wishes to initiate a text amendment, we would just hope that they would give expressed guidance to staff to grandfather in existing use permits.

As you know these use permits are reconsidered every year, essentially have a year time frame, and

we think it would be a horrible and inequitable result to have one of those use permits expire for a year and have the text amendment change in the meantime and then have the city try to remove that use. So that's the one thing we have. If we do expressly grandfather those in, we believe that that will avoid any potential legal issues under Proposition 207 or under the A.M.A., and we just believe that it's good for reasonable investment-backed expectations of these businesses that are legally and compliant, operating in the city of Scottsdale.

So that's all I have. Certainly, I have been involved in this from day one, for the last five years. I'm privy to what DHS is planning to do this summer and as far as new applications. And certainly, I'm happy to answer any questions that you have about the program or the regulations.

Mayor Lane: Very good. Thank you Mr. Hurley. I appreciate that. That's the extent of comment on this item. So we'll go then to council and we'll start with Councilwoman Korte.

[Time: 01:59:32]

Councilmember Korte: Thank you, Mayor. Having not a lot of information presented to us, what have other cities or how have other cities addressed this issue?

Current Planning Director Tim Curtis: Mayor and Councilwoman Korte, without having studied every other city. What I do know is a lot of cities are watching to see what happens in this legislative year, to see what type of changes are going to be forthcoming before they make any changes. We haven't heard any specific concerns about too many facilities locating in their cities at this time but it's still early in that three-year cycle for other facilities to relocate if they wish to.

Councilmember Korte: If the council moved forwards with limiting the zoning districts and the distance between facilities what would a grandfathered exclusion look like? What would that look like? Have we done something like that before?

Current Planning Director Tim Curtis: Mayor and Councilwoman Korte, the concern is the precise language of that. We have to be careful while we are wordsmith that, understanding what specifically would be the ramifications of, for instance, removing a zoning district or increasing the distance requirements that would cause a non-conformity, but you could conceive a language that would exempt any criteria previously established conditional use permits from that additional or the new separational requirements, for instance. It becomes, Mayor and councilwoman, probably a little bit more of a challenge if you exempt or -- or excuse me, if you remove an entire zoning district that has a medical marijuana facility. That becomes more challenging because it's no longer a permitted use. It's a little bit easier when you just wordsmith the criteria which is then applicable to the individual medical marijuana use.

Councilmember Korte: Well, I would -- I understand why, perhaps, other cities are waiting to see what is going to happen in this legislative session, but also the fact that I don't think they have the same pressure that Scottsdale has today given the fact that we seem to be a desired location for these facilities, given the success of these facilities, more people want to -- or more vendors or more

business people want to be in Scottsdale to provide this type of service.

So I would like to make a motion to direct staff for further analysis of regulatory options and come back to council within 30 days.

Councilwoman Milhaven: Second.

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

Councilwoman Milhaven: No thanks.

Mayor Lane: All right. We'll continue with some of the conversation here. Next will be councilwoman Littlefield.

[Time: 02:03:33]

Councilmember Littlefield: Thank you. Actually, I had in my notes that any motion, any change we make on an ordinance -- existing dispensaries need to be grandfathered and I would -- I would suggest that while staff is working on this, to bring us back some options that perhaps Mr. Washburn, you could bring us some legalese on that because I think that that is correct, anything that's already been approved needs to be grandfathered in. At least that's my thought.

I also have a question. What is a special campus? I looked at this map and there's one little dot that I found down there that has a special campus color. What is it? Thank you.

Current Planning Director Tim Curtis: Mayor and Councilwoman Littlefield, the special campus, I think there are about three or four of those districts. The Mayo campus has the special campus zoning, as well as the Osborn campus here for the medical facility, and the campus on Shea is a special campus. And I also think Cattle Track is special campus, there at Cattle Track Miller and McDonald.

Councilmember Littlefield: Okay. I only saw one of them and it's a little tiny spot. I thought what is that? Thank you. That is all.

Mayor Lane: Thank you, Councilwoman. Ms. Jagger did you have a comment or a question?

City Clerk Carolyn Jagger: Looking ahead at the calendar, you've got a lot going on and I wondered if you would consider maybe a date certain of May 17<sup>th</sup>.

Mayor Lane: I'm sorry. Virginia was it your?

Councilmember Korte: That would be fine.

Mayor Lane: And the second?

Councilmember Korte: If the city clerk says that, then it's good.

Mayor Lane: May 17<sup>th</sup> then it is on the original motion which we have yet to vote on. Okay. Vice Mayor Smith.

[Time: 02:05:38]

Vice Mayor Smith: Thank you, Mayor. Question, I guess to staff. You -- your option -- one of your options was to increase the distance to 1320 feet, a quarter of a mile. Was there some rationale for this, or did you just pick that number or can you share with us the thinking?

Senior Planner Bryan Cluff: Certainly Mayor Lane, Vice Mayor Smith, the 1320 square feet is what the existing ordinance is. 1320 linear feet.

Vice Mayor Smith: I thought that was -- I thought we had 500 feet between properties now.

Senior Planner Bryan Cluff: Vice Mayor Smith, the 500 feet is the separation between the facility and a residential use or a school. The quarter mile separation is between medical marijuana uses.

Vice Mayor Smith: Okay. So you are -- that's simply a statement of fact and you are saying we could increase it to whatever number we might want, this was no suggestion one way or the other?

Senior Planner Bryan Cluff: That is correct. The only additional info is that the closest two facilities are 1800 feet apart.

Vice Mayor Smith: Okay. Well, I think like everyone else, we -- we are at a little of a loss here to come up with a meaningful direction because without more -- without more suggestions from staff, you need to give us something to chew on here, besides just we can change whatever we have and it would be helpful if somebody said to see what some of the other communities are doing. I personally don't have a problem with increasing the distance by a great amount. I mean, I don't think anybody has a problem going a half a mile from one place to another, to shop for marijuana. It's not like the -- it's not like the stores have distinctly different products or anything like that, I assume. I don't know.

I will take -- so I suppose I will be supporting the motion to continue this to May 17 and see if you can come back with some more concrete suggestions. I will take in advance my own attitude towards grandfathering the own existing permits is not as generous as some of the other councilmembers.

As I recall, these three new permits that were granted just a few short months ago, we purposefully at that time took it from a five-year C.U.P. allowance to a one-year allowance and we did that, I thought eyes wide open and with the applicant eyes wide open that this was a matter in the state of flux and we would to the commit ourselves for the future. So I personally don't feel committed to anything more than the one year that was granted and in the rules change and they come back and there we are. But that's conversation for a later date. Thank you, Mayor.

[Time: 02:08:44]

Mayor Lane: Thank you, Vice Mayor. You know, I will certainly be in favor of the motion to continue this to May 17<sup>th</sup> to consider some additional options but I would like to be on record that I too would like to look toward even though the closest two facilities right now are at 1800 feet, that's something on. Order of a half a mile between them would probably be more to my liking and from a school and residential area, moving that from 500 feet to the same half mile type of designation.

The zoning districts, it seems that -- we are relatively concentrated on the I-1 principally right now. And I don't know whether we have an obligation otherwise but certainly I'm in that category, I don't have any particular concern about the zoning districts that are designated right now.

The only other thing that I heard when we talk about grandfathering and I think certainly the language is something that we will have to be careful about and protective about whatever risk we might have with regard to not engaging in some kind of grandfathering on this.

But there is one element that is certainly still within our control and I don't know whether this is true or rumored, but I do understand that one of the provisions within the suggested now ballot initiative for recreational marijuana that these facilities would be more or less included automatically as locates for recreational. I don't know if that's true and if we have any further information on that. But if we grandfather anything, I would like to exclude that. That's not been granted by law or otherwise at this point in time. I don't believe that we have any exposure in restricting any existing facilities to the designated medical marijuana situation. I don't know exactly how that gets enforced or otherwise, or what law will actually be communicated ultimately to us, but that would be my suggestion.

So Councilwoman Klapp.

[Time: 02:10:53]

Councilwoman Klapp: I will support the continuance as well, and I also fully support the idea of grandfathering the businesses that currently have C.U.P.s that these are business people who have leased properties that if we change the rules on them we could be forced to move and lose their entire investment. I don't think that's what this council should be doing. I believe that grandfathering the existing businesses makes more sense to me. We could always place different rules on new businesses that come in, if you want to have C.U.P.s in Scottsdale. So I will look forward to seeing what recommendations are coming back from the staff.

Mayor Lane: All right. Thank you Councilwoman Klapp. Councilman Phillips.

Councilmember Phillips: Thank you, Mayor. What I would like to see staff do when we come back is I would like to see elimination of the industrial park and the commercial office and have just commercial campus from here on out. You know, keeping in the grandfathering for the ones we already have but not allowing that to expand. I would like to see the pros and cons of just using the

special campus. It seems like that's a good idea to keep them near the hospitals and the medical facilities but you never know the unexpected consequence. So if staff could look into that, I would appreciate it. Thank you.

Mayor Lane: Thank you, Councilman. All right. We -- there's no further comments that are indicating here. So I'm presuming then we are ready to vote on the motion that's been presented by Councilwoman Korte and seconded by Councilwoman Milhaven. All those in favor, please indicate by aye. Those opposed with a nay. Aye. It's unanimous then to follow that path.

**ADJOURNMENT**

[Time: 02:12:51]

Mayor Lane: So that is a final item on our regular agenda and on our agenda in general. So unless there are any Mayor or council items, I would ask for a motion to adjourn.

Councilmember Korte: So moved.

Councilwoman Milhaven: Second.

Mayor Lane: It's been made and seconded. All of those in favor of adjournment please indicate by aye. We are adjourned. Thank you very much.