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**CALL TO ORDER**

[Time: 00:00:02]

Mayor Ortega: I call the April 5, 2022, regular city council meeting to order. City Clerk Ben Lane will you please conduct the roll call.

**ROLL CALL**

[Time: 00:00:14]

Clerk Ben Lane: Mayor David Ortega.

Mayor Ortega: Present.

Clerk Ben Lane: Vice Mayor Tammy Caputi.

Vice Mayor Caputi: Present.

Clerk Ben Lane: Councilmember Tom Durham.

Councilmember Durham: Here.

Clerk Ben Lane: Betty Janik.

Councilmember Janik: Here.

Clerk Ben Lane: Kathy Littlefield.

Councilmember Littlefield: Here.

Clerk Ben Lane: Linda Milhaven.

Councilmember Milhaven: Here.

Clerk Ben Lane: Solange Whitehead.

Councilmember Whitehead: Here.

Clerk Ben Lane: City Manager Jim Thompson.

Jim Thompson: Here.

Clerk Ben Lane: City Attorney Sherry Scott.

Sherry Scott: Here.

Clerk Ben Lane: City Treasurer Sonia Andrews.

Sonia Andrews: Here.

Clerk Ben Lane: City Auditor Sharron Walker.

Sharron Walker: Here.

Clerk Ben Lane: And the Clerk is present.

Mayor Ortega: Let's stand for the pledge of allegiance. Vice Mayor Caputi.

Vice Mayor Caputi: I pledge allegiance to the flag of the United States of America. And to the republic for which it stands, one nation, under God, indivisible with liberty and justice for all.

## **MAYORS REPORT**

[Time: 00:01:29]

Mayor Ortega: We continue to keep the people of Ukraine in our thoughts and pray for the survival of their democracy. Let's pause in silence. Thank you. Well congratulations to Scottsdale Arts. They had a spectacular outrageous event this weekend. They had a new venue at the stadium, it's called the fieldhouse venue so it can accommodate over 450 people. And that's another addition for Scottsdale. Also today was the last home game for spring training in Scottsdale. That's a tradition that started in 1955 and they will continue to be walking our streets this evening and we really do enjoy that activity.

Let's start off with two presentations and I will read them from here and then meet the people that will be accepting the proclamations. The first one is for the fair housing month. And we have Jackie Taylor who's the executive director of affordable rental movement of save the family. We also have Crystal Shokey, the leasing manager for ARM. And Alyssa Fiorini, chief housing development officer for ARM. I'll read it from here and then we'll walk for a picture. So I really appreciate us being here.

So whereas Title VIII of the Civil Rights Act of 1968 is the result of a combined vision of Civil Rights champions such as Carrie Chapman, Frederick Douglas, and Dr. Martin Luther King who together introduced the passage of the Fair Housing Act. And whereas the Fair Housing Act signed on April 11, 1968, and Fair Housing Amendments Act of 1988 made the principle of fair housing not only federal law and national policy, but a fundamental human necessity and entitlement for all citizens. And whereas Scottsdale multicode section 22 clarifies that people shall not be denied equal access to housing because of a person or persons of a particular actual or perceived race, color, religion, sex, age, disability, national origin, sexual orientation, gender identity, or familial status, and whereas fair housing month provides an opportunity to recognize that all Scottsdale neighbors, businesses, property managers and owners comprise our inclusive community. Therefore I, David D. Ortega, Mayor of Scottsdale, proclaim this Fair Housing Month, and encourage everyone to learn more about the Fair Housing Act and roles we can individually and collectively play to further fair housing for all. So I would like to call forward the executives Jackie Taylor, executive director of Affordable Rental Movement to save the family. Again Crystal and Alyssa, let's get a picture.

[Time: 00:06:35]

Well we also have a double header on proclamations today. It's really important that we recognize volunteerism and this is volunteer appreciation week in Scottsdale. We have Hank Carnium who was also the 2021 volunteer impact award honoree. I saw you earlier today so that's wonderful. I will read this proclamation as well. Whereas national volunteer week has been celebrated each year in the United States of America since 1974 by presidential proclamation and whereas Scottsdale volunteers play a critical role assisting the City of Scottsdale to fulfill the mission of simply better service for a world class community and whereas in fiscal 2021, more than 2300 amazing volunteers nearly matched the number of full-time city employees in Scottsdale. Whereas volunteers contributed 63,000 hours of services offsetting the equivalent of more than \$1.7 million. Thank you. Whereas by sharing their talents and time, volunteers personally benefit by spreading the love of Scottsdale. Therefore I David D. Ortega, Mayor of Scottsdale proclaim April 7-23 this year Scottsdale volunteer appreciation week.

And Scottsdale, I encourage everyone to join me in celebrating the kindness and generosity of volunteers who serve our community. That's how we roll in Scottsdale. That's wonderful.

**PUBLIC COMMENT**

[Time: 00:09:10]

Mayor Ortega: So the next agenda item is public comment. Public comment is an opportunity for anyone, any Scottsdale citizen to step forward and discuss a matter which is not on the agenda. So public comment is something that's always welcome at the beginning of the meeting and at the end of the meeting. However we cannot take any action on any public comment. Speakers have three minutes

and you'll see a warning, you'll hear a warning signal or a gong, one or the other. So at this point we received two requests. One is from Freya Bryer. And if you could please come forward and state your name and address. Thank you so much.

Freya Bryer: Thank you, Mr. Mayor. My name is Freya Bryer. I live at 7619 East Bonnie Rose Avenue. I'm here on behalf of myself and several other residents of Sunrise Villas, to ask the city council to take action on a life safety matter that takes place adjacent to our development. I have presented a citizen's petition and I believe you all have a copy of it. Sunrise Villas is bounded by Miller Road on the west and Jackrabbit on the north. The Arizona Canal runs parallel to Miller.

Miller curves and becomes Jackrabbit right at the corner of our development. Years ago the city created a ramp, a paved ramp, up to the Arizona Canal bike paths right up at that curve. Many of the residents use the Arizona Canal on a daily basis to hike, bike, run, and walk dogs. And they have to cross Miller Road to access that. And the speed limit on both Miller and Jackrabbit is 30 miles an hour. There are signs that drop the speed limits 25 going into the curve, but generally the speed limit and the drop to 25 miles an hour are both ignored. The point of entrance to the canal is on a blind curve. And if you look at the citizen's petition there's a map on the first page that shows you where the curve is and the entrance is right on that in the middle of that curve. The pedestrians who try and cross Miller at that point have very limited visibility, both for northbound traffic on Miller and westbound traffic on Jackrabbit.

[Time: 00:11:49]

There is no marked pedestrian crosswalk and the only signs, and there are pictures of the signs on pages 2 and 3 of the petition. The only signs that advise motorists that there are potential pedestrians in the street are after the canal entrance when you're going westbound on Jackrabbit and about 20 feet before the canal entrance when you're going northbound on Miller. And basic research shows me that it takes a car 44 feet of reaction time when going 30 miles an hour and then 89 feet to actually stop when going 30 miles an hour. So if you are in the middle of a blind curve and a car comes around, they don't have enough time to stop. We are asking city council for a couple of things. A stripe crosswalk across Miller to the canal entrance. Preferably with warning signs like they have on McDonald to cross on the bike to bike path on McDonald or near the Safeway shopping center just north of Hayden. Speed bumps to slow traffic down just as it approaches the curve. And warning signs well in advance of the curve warning that there may be pedestrians in the roadway. Thank you for your time and attention.

Mayor Ortega: Thank you for the petition. We'll be handling that later in the meeting. Next we have French Thompson.

French Thompson: Good evening, Mr. Mayor and city council members. My name is French Thompson. No more disappearing parking spaces tonight. No more minutes of silence. I just have a simple request; there's been a lot of research done by people in the downtown area about construction mitigation. And we found out that a great deal of cities who care about their existing businesses and citizens have construction mitigation plans that are part of every development plan. Which includes where construction vehicles can park, where construction workers can park, where drop offs are for materials, where cranes can go. And so a lot of these cities have put that in there because they really care about their citizens, they really care about the people that are already there on the ground. Now Main Street on the west side of Goldwater has basically been closed to businesses for a year and a half. There's a

completely empty lot behind it, and yet that put all of the construction material and trucks and everything on a city street. That's not construction mitigation. That's destruction of businesses. I am really here to encourage you without any dramatics or anything else. As one citizen that's a business owner that's been on the ground paying my taxes, supporting this city for decades, to be very conscious of the people that are already here. I know the city wants to have this vibrant, sustainable, downtown walkable and all of this stuff, but you've got to remember there's people already there. You don't want to destroy what's already there just to bring in new things. And if the priority is the new things and not the people that are already here, the people who have been supporting the city, there's really something wrong with that picture. And we're getting city staff comments that they're pushing back that they don't want to include this kind of plan. And I know the Artisan has done an awful lot of work putting together a plan like that. While I sat here, I heard city staff say we can't do that. Well then why can these other cities do it. So I just encourage you, put something like that into all construction plans going forward, especially in the downtown area which is a small area. And you have a great deal of merchants there and other businesses, not just merchants, restaurants. So please, I implore you to include construction mitigation in all construction going forward, thank you.

[Time: 00:16:47]

Mayor Ortega: Thank you. I do not see any other requests to speak from the public, so I will close public comment and we will move on with our agenda.

**CONSENT AGENDA**

[Time: 00:17:05]

Mayor Ortega: Next we have our consent agenda items that were posted as items 1-14. Also we have the opportunity for public comment, however I see none on public comment consent agenda items. Consent agenda items are listed and with all of the standard application requirements and at this point there have been no other questions or comments about the consent agenda items 1-14. Does council have any comment on any one in particular? Councilwoman Littlefield?

Councilwoman Littlefield: Thank you, mayor. Is Dan Worth here? Maybe he can get back to me. I have a question on item number 12. The pedestrian behavior pilot program license study agreement. It looks like two locations, 1 At Scottsdale Road and Camelback and 1 Between Buckeye Road and Saddleback. They want to assess pedestrian behavior. If he could tell me something about that program, I'd appreciate it as to what the purpose of it is and what we want to accomplish by doing it, thank you.

Mayor Ortega: I'll fill in while they're coming up. I think it's part of the smart city data collection that they're trying to have a different analysis of data. Go ahead, state your name, please.

Phil Kercher: Thank you, mayor and members of the council. I'm a traffic engineering manager. It's not a part of the smart city. We were actually approached by this consultant and asked if they could do a demonstration project in Scottsdale. It's essentially putting radar and cameras up and observing pedestrian activity and vehicles, monitoring them with that technology and then reporting back to us. So it records near misses with pedestrians, pedestrian crossings. And it will record for 24 hours a day, they're going to have it out there for a year. And all the contract is for is for them to put their equipment on our equipment, on our signal poles and street light poles. So there's no cost involved. They offer to

do this for free. And because of the interest in Scottsdale Camelback and pedestrian crossings and trying to improve that, we suggested that location. They thought that was great. They're also trying to do a section on Camelback east of there next to the entertainment district and that activity. It's essentially giving us free data, and we can use that data to make decisions about what improvements are necessary.

Councilwoman Littlefield: Thank you, I just wanted to have a little bit more explanation on that. Dan, I apologize, I meant to call you this afternoon and I couldn't get back to my phone. I apologize. But thank you so much.

Phil Kercher: You're welcome.

Mayor Ortega: Thank you, I see no other request to speak on the consent agenda items 1-14. I'm now closing public comment so at this point I'm open to a motion.

Councilwoman Whitehead: Mayor, I'll make a motion to approve consent agenda items 1-14.

Mayor Ortega: 1-14 and we also see a second.

Councilwoman Janik: Second.

Mayor Ortega: Okay, any other discussion? Seeing none, please register your vote. Unanimous. Thank you very much.

**ITEM 15 – TOURNAMENT PLAYERS CLUB CONDITIONAL USE PERMIT (58-UP-1985#2)**

[Time: 00:21:10]

Mayor Ortega: Next we have our regular agenda items. We have three items, items 15, 16, and 17. Item 15 deals with the tournament players club, TPC conditional use permit number 58-UP-1985#2. We have Meredith Tessier, a senior planner. Then we will hear from the applicant.

Meredith Tessier: Good evening, mayor and council members. I'm Meredith Tessier with the planning department. Please keep in mind this item is on the regular agenda today because we have received correspondence from neighbors expressing both support and concerns. The subject site is located at the southeast corner of East Bell Road and North Greenway-Hayden Loop as highlighted in yellow. Before you is a close up area of the subject site with surrounding uses that include existing condos to the east, existing sports field to the north as well as the existing TPC golf course to the west and south.

The subject site is zoned open space district which allows conditional use permit approval for golf courses. Before you is the applicant site plan where access to the site is provided along East Bell Road with an existing driveway. The restaurant facility is centrally located on the site and surrounded with on site parking stalls.

Please note that there will be a pedestrian access on the southern portion of the site as well as a 30-foot landscape buffer on the eastern portion of the site. Some key items of consideration are the conditional use criteria set forth in the zoning ordinance. This only allows the existing expansion for the golf course.

The permit remains the same and it's just a refinement of the boundary of the golf course. And lastly once again we have received public comments in both support and concerns for this use. One moment. There we go. Before you is a timeline slide. There's a bit of text so let me walk you through it briefly.

On June 8, 2021, the city council did approve a lease agreement between the TPC and PGA for the operation of a sports book facility. Subsequent to that on December 7, 2021, the city council approved an Eighth Amendment to that lease agreement which allows the tenant as well as the PGA to have that type of operation on the subject expo parcel. On December 14th, the applicant held a virtual open house meeting, subsequent to that, the case went to parks and recreation commission for a discussion item. And lastly as of March 9, 2022, the planning commission recommended approval for this conditional use permit to city council with a vote of 5-1.

I'll conclude my presentation with this action slide which again is the request for a conditional use permit for the expansion of a golf course. The applicant is here to present and staff members are here from the transportation department and the applicant Chris Walsh and Bill Murphy from the parks and recreation department as well.

Mayor Ortega: Very good, let's have the applicant come forward.

[Time: 00:25:02]

Jordan Rose: Thank you, if you can pull up my slideshow, that would be great. Thank you, mayor, vice mayor, members of council. For your records I'm Jordan Rose with Rose Law Group. And with me today, thank you, with me today is Brad Williams the general manager and regional director of operations for the TPC Scottsdale the PGA Tour, the architect, the engineer, and Bill Borders from Arc Construction and Jen from Rose Law Group as a planner. Are you doing that, not me? Okay. All right, I'm sorry. Thank you so much for all of your input, we very much appreciate all of the time that all of you have taken and your staff and management and city attorney's office over the last nine months at least. This three acres extension, I'm in a loop here. Can you help me? Thank you. Sorry, small technical difficulties. Thank you for trying to get that to go.

As your staff mentioned, I know you've seen this case at least three times now in the last nine months and we very much appreciate your support. It went to the parks department and planning commission, and now it's back here. Will we have luck with that or should I just go on? Okay, but it's in some strange loop where it will only show me two slides. It's such a good presentation. Okay. Is that what I should do? You think it's broken? Sorry, mayor and council. Okay, let's see how that goes. Do you have a presentation that would look better than this? Maybe could I use the keyboard potentially? Okay, let's do that. Next slide. All right, next slide. This is the three acres and you can see it's at Bell and Greenway. I'll show you in a second as you know what it looks like right now. Next slide.

So the intent is to build a luxury restaurant and sports viewing destination. The PGA Tour as you know has a world class reputation just as Scottsdale does for luxury. And that's exactly what this will be. Next slide, please. And next slide. And then the next, okay. Meets all of the conditional use permit tests. This is the wrong presentation, okay, then let's not do that. This is a different presentation, but it's great. Let me try, maybe, Meredith. Do you have the presentation printed out maybe? All right, great. Let's try

this. We'll go back, that's not going to work. So the presentation that we sent at about 3:30 if that could get pulled up, thank you. It meets all of the conditional use permit tests. The restaurant will not be materially detrimental. The sports lounge is only 18% of the entire building. And I hope you can see this slide, but the mayor asked also and I think that was a very clarifying question is how much of this is actually you have to be in it to place bets. It's just this 18%, a very small percentage.

[Time: 00:29:38]

It's mostly a restaurant for people who are sports enthusiasts. It's significantly set back from the homeowners association wall. In fact it's 208 feet from the wall. Did you get it to run? Is it running or no? Okay, because this is a little different than that. 208 feet from the wall. You can see here this is the corner of the condo, the closest condo. And the 208 feet is actually measured to the wall of the homeowner's association because that's a gated condo association. So it's probably about 214 feet because the condo would be set back. In addition to that, we have the outdoor space which is far to the west is wrapped by the building. And so any sort of activity that would be on the patio which would be people eating dinner or something is wrapped by this and separated by the building. There's also the PGA Tour, the TPC has agreed to landscape this side of the homeowners association wall and maintain that landscaping on the homeowners association property. So as you can see the champions course road is right here. So that's a further separation. And then we'll have a nice maintained tree line right here. So it will actually improve the neighbors view quite a bit and many of the neighbors were asking for more trees. On this side of champions circle we'll also be planting trees and maintaining trees for buffering.

We've agreed to no DJs or live bands and no elevated speakers. Compliance with your noise ordinance certainly, and the parking meets the Scottsdale code. In addition we have agreed to try to solve a safety problem for the city. Neighbors are very concerned with Bell Road having such quick traffic on it at times. And so we agreed to put in a pedestrian crossing on Bell at our expense and it was something that the city had no plans to do. That should not only help for the condo folks and folks that are at the sports complex to be able to cross Bell Road safely, but also it should significantly slow down traffic on Bell Road which has been a complaint of the neighbors. We're not adding any points of access and we will be increasing the safety of that roadway.

And I think that's very important for the CUP test that you need to meet. The second test is the restaurant reasonably compatible with the types of uses in the surrounding area. And certainly this area is filled with, there's a clubhouse across the street, and a luxury restaurant will be really a benefit to the area. In the other presentation you could see, but I'm sure you've driven by it, what the storage site looks like when the Phoenix Open is not going on. It's a storage site for equipment and so it certainly doesn't fit the character of Scottsdale. And this restaurant which is beautiful I think will. So it's not very visually appealing right now. Oh and I do have an actual picture of it. Hopefully you can see that. But that's surprising that that's what it looks like. But hopefully that will change soon if you're supportive and it will enhance the whole area.

So provide an amenity to the area, allow enhanced entry to the waste management open. This is where the tents are where you enter the open currently. So this will beautify that. And it's a single story beautifully designed building. I want to touch on some of the commitments that the TPC and PGA Tour made to the homeowners. The first was to move that crossing closer to the homeowners association. That not only serves for them to recreate across the street but also it serves for that slowing of the

traffic on Bell Road which is so important. We're also going to be supportive of the homeowners associations request for a speed limit study on Bell Road. And like I said we're Guantamo to maintain and plant trees on their property, around their homeowners association property on their perimeter wall and across the street also. In addition the TPC has dedicated, has a dedicated person who will answer and all of their phone calls, not just about this restaurant, but about the open in general. And so that should be very helpful to the neighborhood as the open continues. During the lease negotiations, the city had a study by Elliot Pollack, it showed \$47.1 million annually from this project. And \$724,000 in taxes for the city directly. So it is definitely impactful. I will do a disservice to these pictures by using this primitive Elmo. So I apologize to the architect. But you can see in your packet the building is really a beautiful project that hopefully the city will be proud of and the community will take pride in and enjoy.

So I'll just flip through some of these pictures and if you have specific architectural questions, the architect is here to talk about it. And thank you for your suggestions on some of the architectural features that we changed because of suggestions. You can see it's a low profile one story building. There's lots of sports screens for viewing for families and sports fans. And we're really very excited about this. So sorry for my presentation being a little clunky, I haven't done an Elmo since I think maybe ten years ago. But thank you to city staff for figuring that out for me. Thank you. I take any questions and I really appreciate you supporting this today again.

[Time: 00:36:37]

Mayor Ortega: Thank you, stand by. We have the opportunity for public comment. Our clerk tells me there are two wishing to speak. So we have Tom Higgenbotham, and please state your address. Yes, please come forward. Then we have Ed Grant.

Tom Higgenbotham: Thank you. My name is Tom Higgenbotham. I'm at 4215 North Windfield. I've been a business owner and property owner here for 30 years. Seen a bit of development in that time. I'm up in that area frequently and my daughter plays soccer in that complex. And on a personal note I think it would be great to have a place across the street to walk and have a burger. But more importantly I think that area lacks that kind of a service or use and I attend the Phoenix Open quite often and I understand this project would come with some enhancement to the entrance there which it could desperately use. And it's backed by two very solid companies in the TPC and in extension the PGA and DraftKings. And I think there's a high likelihood they'd stay in business and I think this would be a strong project and a good business for some time in the community and I'm here to lend my support. Thank you.

Mayor Ortega: Thank you, sir. And Ed Grant.

Ed Grant: Mayor Ortega, members of the council, good evening. My name is Ed Grant. I'm a 35 year proud resident of Scottsdale. In addition I work for Scottsdale Investment Management, a 45-year-old commercial real estate firm based here in Scottsdale. Very proud to live here, excited to be here to talk about this application this evening. One of the things I think we've done really well at in Scottsdale is as we grow, we've paid attention to our past and we've grown intelligently.

And in this case the city has made a significant investment in infrastructure in the form of the TPC and the Scottsdale Soccer Complex. One of the things that you hope to stimulate with that of course is private investment, and that's exactly what this is. So I'm here in support of this application this evening,

seeing this city grow over the 35 years that I have lived here, I've come to understand good development.

I actually had the pleasure of being a planning commissioner for six years. And so I'm also very familiar with the general plan. I looked at specifically the economic vitality element, the tourism and land use element, I believe this application is supportive of all of those. And for all of those reasons, I hope you're supportive of the application. Thank you.

[Time: 00:39:45]

Mayor Ortega: Okay, thank you. At this point I will close public comment on item 15. I do have a point to make. With respect to a CUP, conditional use permit, and a conditional use permit runs with the land and it runs with the owner of the land. So actually the City of Scottsdale owns this property. And it is an expansion of the TPC golf course that we're very proud of. And in one way it was just say a remnant parking lot, but a very important parking lot that's going to be converted that has been in the use as property next to the golf course. One of the things I want to add to the stipulations is that page 1 of 3 references these stipulations and it references the date of the drawings for instance on site plan, pedestrian circulation, I think the hawk controls there and public safety is important.

I think there's a good connection because the Tournament Players Club, sometimes people are intimidated by clubhouse, you know, maybe. So this would be a separate property with a distinct building and then probably easier for us to police if it were tacked onto some other building on the 9th hole or something. So it seems to have very good access. But the point I want to make under operation, there's one item that talks about noise, that's four. I'll call it 4.1 on operation and this is after all a use permit, a conditional use permit.

And I reviewed a stipulation that would have to do with the operation and it would state, it would be 4.2, compliance with applicable law, the operator is subject to and shall remain in full compliance with all State of Arizona and local jurisdiction requirements. So it's not stated anywhere else other than the lease document that we've already transacted. But we're also going to put it in the CUP. So that's my suggestion on that. I would like the response from the applicant to that and then also I'd like if there's any other comment from council or discussion on that matter?

Jordan Rose: Mayor and vice mayor, members of council, yes the applicant would accept that stipulation. Thank you for that.

Mayor Ortega: The other thing that was missing from our packet but you provided today was the extent of the premises, that's where the gaming area is and it's now shown. So I want to enter that into the record. So it was posted, seemed rather nebulous and was not complete enough. And many times we do CUPs for live entertainment or other uses and we have to distinctly show where those are.

So that was unclear and it's been corrected. So I want to make sure that is also I guess stipulated because it's shown, but it has to be entered in the record. Those were the two catches I have. And thank you. You can sit down.

Jordan Rose: Thank you, mayor.

Mayor Ortega: And at this point if we could have a motion and discussion if you would. Okay, Councilmember Milhaven.

Councilwoman Milhaven: I was going to make a motion but --

Mayor Ortega: No, I need a motion. Let's go with the motion first.

Councilwoman Milhaven: I'd like to make a motion to adopt resolution 480-312-4210. I would like to add that the PGA has been a wonderful partner for the city and we're excited. Adding that they shall remain in full compliance with all State of Arizona and local jurisdiction requirements. I want to thank the PGA for a great partnership and I think this makes a great partnership even better. Excited to see what you're going to build here. I think it will be a world class facility we can all be proud of. So thank you for that partnership.

Mayor Ortega: We have a motion. Councilmember Durham, do we have a second?

Vice Mayor Caputi: I'll second that. I echo those comments as well. Thank you for being a great partner and presenting a wonderful project.

Mayor Ortega: Let's see clarification from the city attorney.

City Attorney Scott: Yes, thank you, mayor. I want to make sure the record is clear. Does the motion include amending the site plan to include the additional graphics showing the 18% of the entire building for the sports lounge, is that part of the motion?

[Time: 00:45:13]

Councilwoman Milhaven: Yes, thank you.

City Attorney Scott: And part of the second?

Vice Mayor Caputi: Yes.

City Attorney Scott: Thank you.

Mayor Ortega: Okay, so those two catches are shown and that's dated today on the extent of the premises. Otherwise it would just be a restaurant. I see Councilmember Durham, Councilmember Whitehead.

Councilman Durham: Thank you, mayor. I had a question about parking. The applicant stated that this meets the parking requirements. How are those computed exactly because I think I calculated 370, 380 seats and I think there are about 114 parking spaces and I'm just not sure what the exact rule is. So if you could comment on that or staff could comment on that, I'd be interested in knowing how we calculate the required number of parking spaces.

Mayor Ortega: So we'll call on the architect or the planner to verify the numbers. I want to hear from the architect on this one.

Mike Marcoux: My name is Michael. So we calculated the entire property under the general restaurant rules. The only thing that we held aside is there is a small 1600 square foot area, sorry?

Mayor Ortega: Use your mic.

Mike Marcoux: There's a small 1600 square foot area that is dedicated to the DraftKings office space. So we calculated that area based on the Scottsdale code for office for parking and as opposed to the rest of it as the exterior and interior under restaurant. I think it dropped the parking. If we had done the whole site as restaurant, I think we lost three spaces out of doing that. So we calculated the entire area as 122 where we would have needed 126.

Councilmember Durham: I thought I read it was 114 spaces? Was I wrong about that?

Mike Marcoux: Yeah, there is, let me double check, but I know is my understanding is there is 122 spaces on the site. Yes. Yeah, there are 122.

Councilmember Durham: All right, thank you.

Mayor Ortega: Councilwoman Whitehead.

[Time: 00:47:59]

Councilwoman Whitehead: I had a question too about the parking. There's also a parking lot south, I couldn't tell if that's connected.

Mike Marcoux: So there are two parking areas just directly south of our lot. One is dedicated to the Champions Golf Course. And if we were looking at a cross access agreement if we are looking at sports events going on at night, golf petering out during the day, there's a natural cross access use between those spaces. There's an additional use called the expo space which is kind of an unused dirt lot between the two that we are improving while we're updating the entrance to the waste management open. That is also going to be improved a little bit, but it has some parking along that edge as well. Both of those spaces are easily accessible if we do have overflow parking and if there's say the super bowl, some kind of random event that requires extra space, there's easily valet parking within walking distance that doesn't require crossing Bell Road or infringing on any of the neighborhood.

Councilwoman Whitehead: Okay, thank you. That's very helpful. Now I'm understanding the factors that led this project to move from being connected to the existing clubhouse to the new location makes sense to me. And I really appreciate the hawk and the traffic study. So I'll be supporting it. Thank you.

Mayor Ortega: Thank you. I see Councilwoman Littlefield, did you have --

Councilwoman Littlefield: I will not be supporting it this afternoon. This project presented to us this evening is a great deal larger than the original submission request. This includes a construction of a

separate stand alone gambling building which will hold a restaurant and a fairly large outdoor lighted patio, and I assume visual displays for the games as they appear. Sportsbook traffic, parking, lights, and road expansion. This would be built at the corner of Bell Road and Greenway Hayden, from a back room in the existing clubhouse, we are now being asked for a whole new complex. And it's unfortunate that this new building is very close to an existing neighborhood and a large park and children's sports facilities. They're asking for seating for 400 according to what I read in the application with 122 parking spaces.

At two people per car, say 250, that's roughly 150 people without parking spaces if it fills up as they assume it will. That's short about 75 parking spaces. Where are we going to put those cars? Where will the overflow of the cars park? In front of the houses, along the streets? In front of parking lots that are supposed to be used for park use and children who come to play the games in the facilities? Is the city now providing free parking for a gambling house? That's my question.

[Time: 00:51:18]

The CUP requires this be reasonably compatible to the surrounding area. I do not see it as reasonably compatible to the existing surrounding area. Nor do I see it as improving the quality of life for the existing residents that live nearby. In fact, it very well might be taking from their quality of life especially if their streets are filled up with cars that are parking along the sides. This council voted to approve a CUP for the construction of the interim betting site within the current clubhouse. I voted for that, I was okay with that.

It was small, it did not interfere with other parks or sporting activities nearby, and it was not disruptive to the lifestyles of the residents. I'm still okay with that, however I can't approve the current request. It is not compatible with the surrounding areas and we have received many emails from people who live in those residences who have told us so and are very concerned. This gambling site does not improve the quality of life of any nearby residents or for the visitors who bring their children to enjoy soccer games or other outdoor games in our nearby recreational facilities. I believe it could very well be disruptive to them. Go back and do what we originally approved, no one's quality of life was harmed. This larger proposal however is destructive to the lifestyle of those who live nearby and interferes with those using our parks and our park facilities. The people in those residences have a right to expect the peace and quiet enjoyment of their homes. This won't give it to them. Thank you.

Mayor Ortega: So we have the opportunity to further discuss the motion and the second, I see no other commentary or requests to speak among council, so please register your vote. Okay, it passes 6-1. Thank you, good luck with your project.

**ITEM 16 – PALO ON 75<sup>TH</sup> REZONING (9-ZN-2021)**

[Time: 00:53:34]

Mayor Ortega: Next we come to item 16. Item 16 is Palo on 75th Street rezoning. Case number is 9-ZN-2021. Our presenter is Greg Bloemberg, project coordinator. And then we will hear from the applicant. Proceed, Greg. Good to see you.

Greg Bloemberg: Thank you, Mayor Ortega, council members. Greg Bloemberg, project coordination liaison here to give you a presentation on case 9-ZN-2021. The site is located at the southeast corner, right there highlighted in yellow, at the southeast corner of Indian Road and McKnight. Miller Road to the east. A closer look at the site, right across the street to the west is the very city hall that we were in and then to the northwest is the other city office building. There is single story, I'm not going to use that mouse anymore. There's single story residential and low density office to the east. There is a mixed use multistory project to the south, and a similar use to that to the north on the north side of McKnight. The old town land use character area plan designates the site as downtown multiple use. And the old town character plan development types map designates the site as type two. Current zoning on the site is service residential downtown overlay, S-R DO for short. And if approved the zoning would change to downtown/downtown multiple use, type two downtown overlay.

So just a brief summary of the request and some background again the request is to rezone from S-R-DO to D/DMU-2 DO. This would reinvest and revitalize a site in the old town area. No bonus development standards are requested with this application. There is an amendment to the building setback only along the street from 20 feet to 16 feet to back of curb. And there has been some public comment on this case. I want to talk just a little bit about the parking situation. There is a provision in table 9.103B of the zoning ordinance that I will read verbatim so everybody will hear it. It basically says for a workload scenario which we do have here. In addition to the parking requirement for the commercial floor area with work with the unit, parking shall be provided for developments containing more than one dwelling unit, excluding the first dwelling unit.

[Time: 00:56:53]

This site has five dwelling units, so they are taking advantage of the exclusion for the first dwelling unit. A little more information about the parking, typical parking requirement for this site would be ten spaces based on two spaces for each unit. There are five two-bedroom units. No guest parking is required because there are less than 20 units proposed.

Again I mentioned the credit available, the revised parking requirement is nine spaces. And the parking provided is nine spaces. One of those spaces would be for commercial use during the day. Here's the site plan. There's one-way access off of McKnight headed south to the alley. And the parking is all on site angled parking here. We're getting a wider sidewalk along the street, eight feet wide. And some good streetscape improvements as well. Water sidewalk six feet wide on McKnight Avenue. And all units will have direct access to the street including stoops which we feel is a nice little feature for this project. And one of the reasons that the sidewalk is at the curb is we don't want the public area to be too close to where those private stoops were located. It felt like it was important to make sure that this was designated as private space and that this is where the public should be. That's why the sidewalk is attached to the curb.

Landscaping wise, there is some landscaping provided. Most of it is shrubs and ground cover. There has been quite a bit of discussion about adding street trees at this location. Staff had some concerns about that idea mainly because there's just not a lot of room at this location for street trees. With traffic on 75th Street and the building itself, it would be very difficult for any tree as it matures to mature naturally without being pruned quite a bit to keep it out of the traffic lanes and to keep it from conflicting with the building itself. So staff recommended against that.

The applicant may speak some more to that, but that's the reason why there are no trees on this plan. These are the elevations. Again no bonus development standards. There is a setback amendment, but no bonus development standards are requested. Some perspectives of the building. Those palm trees are outdated. There are actually not going to be any palm trees at this location. And during the planning commission, there was discussion about this case. It was on the regular agenda. One of the questions that came up from the planning commission as well as from a citizen is do we need an accessible parking space on this site? The answer is yes. Parking ordinance requires it and the Americans with Disabilities Act also requires it for any parking area with greater than four spaces. And that was discussed at length actually at the planning commission. So it is a requirement even for a smaller project like this.

What assurance will there be that there will be a work unit, I defer to the applicant to give an update on that. Similarly for the on site commercial parking space, how will that be enforced, I'll let the applicant get into that as well. Short term rentals, the city obviously as you know can't do much about short-term rentals right now in terms of restricting them. The applicant was asked to prohibit them, I will again defer to them to explain what their position is on that. And then the planning commission did recommend approval with a vote of 5-1. Finally we are in receipt of a legal protest for this project.

We received this protest on April 1st, actually the city clerk did. It's my understanding the applicant may have an update on this. But I'll go through and just real quick here tell you what staff's analysis indicated. Staff's analysis indicates that the request does not meet or the protest does not meet the criteria established by state law. The protest area is less than 20% of the overall property area affected by the zoning request. It's actually closer to 11%. So it has been determined through a consultation with legal staff that it is not a valid legal protest. That concludes my presentation. I'll end with the pretty pictures and turn it over to the applicant unless there are some immediate questions for staff.

[Time: 01:01:37]

Mayor Ortega: Greg, would you please comment. The current zoning is S-R, service residential, could you comment on the change of use with the commercial type use as compared to the S-R currently?

Greg Bloemberg: Yeah, the downtown overlay, I'm sorry Mayor Ortega, and council members. The downtown overlay, one of the reasons it's going through a rezoning action is because the downtown overlay restricts residential in the ground floor to a certain percentage of the building. Now we're going for a downtown district that would allow 100% residential to include feasibly on the first floor. I don't know if that answers your question, but that's the only change that's being --

Mayor Ortega: Not just percent, but I meant type of business on the ground floor. Before it was generally professional office ancillary to or useful for a residential context in an S-R. But now what kinds of uses could the commercial be?

Greg Bloemberg: Oh I see what you're saying. Feasibly with the downtown multiple use there are a variety of uses that could be done at this site. It's a very general commercial and mixed use type of a zoning district. There could be feasibly, it's not obviously what the applicant has in mind, but feasibly there could be a restaurant or there could be retail or any kind of use like that. The S-R on the other hand would only allow residential and low intensity office type uses typically.

Mayor Ortega: Okay and that would all be subject to additional parking and --

Greg Bloomberg: Correct.

Mayor Ortega: Okay, let's move on to the applicant. Thank you.

Lauren Proper Potter: Thank you very much. Good evening. I'm a little worried about how this presentation is going to go so we'll tag team this if we need to. My name is Lauren. I'm here this evening on behalf of Palo on 75th. Greg did a great job of introducing the project so I'll try to avoid redundancies. You can see that's City Hall and we are directly across the street from there. We are at the corner of 75th Street and McKnight.

The subject site is currently pretty unattractive and outdated office building. It's fairly underutilized for the area. And what we're asking here tonight is to be able to take this building and transform it into this building which we think is much more compatible with the area and fulfills a lot of the city's long-term planning goals for this area. So specifically those requests this evening is twofold, the first request is to rezone as the mayor was pointing out. And I think I can give you a better answer about the uses as we get deeper into this. But the request is to rezone from S-R service residential to D -- DMU-two which are part of the city's old town character plan for this area.

[Time: 01:05:07]

The other request is amended development standards, those are to reduce the setbacks on 75th Street and McKnight from 20 feet to 16 feet. In terms of support, I am very glad to tell you that I have an extra bullet point on here tonight. First we have a staff recommendation of approval which we worked very hard to get. Your professional staff has been great. They made some good suggestions, we've worked with them. Our projects just turned over a year old and so we're glad to finally be here this evening. We're also happy to be here with a recommendation of approval from the planning commission.

That was a 5-1 vote. And I am most excited to tell you that we are here tonight with support from the neighbors who originally had filed the legal protest. They had expressed some concerns. I don't want to speak for them, they have a representative here. Many of them are in attendance as well. I'll let you tell them themselves their position. We also have some other residents from the neighborhood who are here in support as well. We think that we've presented a good project and we're happy to be here tonight with the support from others. I want to talk a little bit about what Palo on 75th Street is and is not. This is a high quality, really challenging in fill development. We go from .3 acres to just over .2 acres.

We're adding 8-foot sidewalks for the public. We're increasing the sidewalk widths on McKnight as well. We are less dense and we are not as tall as the adjacent project Main Street Place although we do think our projects are pretty similar and staff has worked with us on making sure that some of the standards that we're meeting are consistent with that. What is Palo on 75th Street not, we are not a short-term rental development, we are not asking for development bonuses. We have proposed a project that is actually in almost every aspect consistent with what could be built under the SR category today.

Our density 16.67 dwelling units per acre. That's less than what would be permitted on the site today. And so we're not attempting to maximize everything we can out of this site. We've really worked hard to propose something that we feel is appropriate for the area. And so this just touches a little bit on the height. This is the main reason Greg also mentioned ground floor residential uses. It's really about height. What would be allowed under the current zoning category, 26 feet. We're proposing a third story loft for this building. It's stepped back pretty significantly from 75th Street.

The maximum height here is 39 feet. And so one of the things that we heard when we were doing our public outreach was a lot of concerns about short-term rentals. I'm sure you've all heard concerns about short-term rentals as well as. It's a big concern in the city right now. What we did to make sure we could make a commitment, it's a private restriction, we filed a condominium plat yesterday actually. It's been a long week. But I believe we filed it yesterday. It was filed on Monday. And included with the condo plat, we have a note on the document that says that there will be certain restrictions filed consistent with the plat. So it's kind of a note if someone were to pull the plat, that would see that note, oh hey, there's going to be CCNRs here, and they do a lot of things. They talk about what easements do, but what they really do and what we've worked with the neighbors to make sure they restrict rental terms. What we've put into the CCNRs which the city has 30 day restrictions on rental terms here. So there will not be short-term rentals here.

[Time: 01:08:45]

So again I'll just briefly go through this, I think I might be able to get this done in under ten minutes which could be record timing for a lawyer up here. Again these are our requests. We think they're consistent with the city's general plan, both the previous plan and the one that was just approved by this council. It's consistent with the old town Scottsdale character area plan. And we think it's consistent with the neighborhood and the adjacent Main Street Place projects which was one of the first good infield projects in this area. And for the development standards to go from 20 feet to 16 feet, these are the same setbacks as Main Street Place. We did not invent this number, we came in requesting a further reduction to the setback, and the staff said sorry, the setback standard has already been set on this street and you'll have to figure out how to match the project next door. That's what we did. It took a lot of revising, but we were able to make sure that we provided the setback standards that are consistent with the adjacent development for proposed Palo on 75th Street.

If you looked at the building today, it seems close to the street. You are correct, it's about 10 feet setback today. Although we're asking for a reduction from the standards, it's actually a better situation that exists today if you were to walk by there. I'm happy to take a walk with anyone after the hearing by the way. Just to give you a comparison between Palo on 75th Street and Main Street Place, our density is 16.6 dwelling units per acre. They're at 21 dwelling units per acre. We both have 16-foot Street setbacks and a 10-foot setback on the alley. I'll just breeze through these. These show where we are in the general plan. Mixed use neighborhood, we're part of the old town growth area, downtown multiple civic use center district, and we've drawn the guidelines of those plans. I know they're not before you tonight, but we did use those guiding documents to create the building that you see before you today. And so one other very quick note on this, we're very aware that this is a great site. It's very close to all of the amenities that downtown has to offer including civic center plaza which the city is investing a lot of money in revitalizing right now. One of the things we've done, we're not required to,

but we require large scale parking on site. And we would like future residents to be able to take advantage of all of the multimodal options and the ability to not use a vehicle to travel around old town.

So again I'll just touch briefly on these, we had our first submittal in March of 2021. So we did just turn one year old. Greg did not send us a birthday card, so I have to talk about that later. We originally came with six units. We had gone through some subsequent revisions. We ended up with the plan you have today. We only have five units. One of the things that we've done in addition to having the required neighborhood meeting, we've had open and ongoing conversations with the residents of Main Street Place and a lot of the other people who live in this area. So we had a specific meeting that was just between us and the residents at Main Street Place.

They gave us a lot of feedback and input. We took some time and revised the plan significantly to incorporate their comments. I'm happy to go into detail on that if you would like me to. But ultimately we ended up with the plan here today. I think the plan reflects a good compromise. I think it is a great example of how the public process works and when it's working well. We've been able to come here, we've worked through some challenges with the neighbors. We're here tonight withdrawing the opposition to the process. And I think we have some residents in support. I think this is a great example of how when we come together we can come up with something that will ultimately be better for the city.

Again this is the project that we would like to build, in order to do that we are respectfully requesting your approval of our request this evening to rezone from S-R DO to D/DMU-2 DO and to amend the development standards to reduce our setbacks from 20 feet to 16 feet. Just in case you needed a reminder, this is what's there today. Not the most attractive building in the world and this is what we would like to do with your approval this evening. With that, 50-seconds left. I'm happy to answer any questions.

[Time: 01:13:08]

Mayor Ortega: What we will do now is go to public comment. And there are two requesting to speak on Palo on 75th Street. Then we can come back to the applicant as other questions may emerge. So we have Timothy and Tom Frankel.

Timothy LaSota: Good evening, mayor, members of council. Timothy LaSota. I'm at 2198 East Camelback Road in Phoenix. And much of what Ms. Potter said is correct. We did ask for this restriction on short-term rentals and we did come to an agreement between us that the short-term rentals would be restricted and the way we would do it was through restrictive covenants which are a matter of private contract. There are no state law implications that restricts council with regards to what it can do with short-term rentals. We found a work around. We were thankful for Ms. Potter working with us. That wasn't the only change they made to accommodate the concern as she mentioned. But she's agreed to that, but it's not yet in the packet.

So we are asking that it be included in the motion and Ms. Potter can confirm that she is in agreement with it. Simply a stipulation that the applicant, excuse me, the property owner will record a condominium plat within one year of the zoning approval. That's already been done, but we would ask that first stipulation to put my clients more ease at Main Street Place HOA. That's our only request. That

was the offer that was made. And as a result of that agreement, we did agree to withdraw our opposition because that was our major concern. So with that, I'd be happy to, I guess you don't take questions from public commenters.

Mayor Ortega: Thank you, Mr. Lasota. We have a second person wishing to speak, Tom Frenkel. And we will get a legal opinion as well on that other private covenant. Hello, Tom.

Tom Frenkel: Tom Frenkel, 7340 East Main, Scottsdale. I haven't been here since Covid so congratulations believe it or not to the new council members or new mayor, because I haven't seen you here since. But I'm a long-term property owner in the area and I don't want to waste a lot of time. I heard there was going to be a legal protest and some opposition to it. I think you might have a new junior John Barry on your hands. She called me, she was a stranger but said could I come speak because I've been there for a long time. If there is no opposition at this point, I won't take real long. But I've been there, I've owned maybe 12 or 13 parcels within a half mile of that area.

I still own 4 or 5. I developed across the street, the McKnight building will there was residential on top of it 20 years ago before there were VRBOs and before there was residential in the area. As well I own one a half a block away with residential on top of it. Very hard to develop on a small lot like that. And frankly I'm surprised, I have looked at that lot and I never could figure it out. But the fact that her client came up with a design that worked really beautifully with beautiful architecture, and the things that are given to larger developers, the few things they're asking for on a small lot as hard as it is to make it work, I certainly would applaud that they tackled going after it.

It's a beautiful design and I definitely think that this is one that you would want to go out of your way to try and support. VRBO, if you've worked that out also, I thought that was going to be the issue. I have my whole family lives in Scottsdale. My daughter is a victim of worked real hard to buy her own home in the area and has a VRBO next to her and it has compromised her life. So I'm quite aware of that, sensitive to it.

This really isn't a single family home area, so if they've agreed to the restriction, it probably doesn't matter. But even if they haven't, I would have said it's not going to affect too many people as far as if the large complex next door, I was there and also supported the complex when it was approved and there was a lot of controversy over what it was going to bring and what it was going to do and the traffic and the height and could they be rented or whatever and the truth of it is it's been a wonderful addition. They all live peaceably and it's worked real well. So thanks for the opportunity and good luck with it.

[Time: 01:18:18]

Mayor Ortega: If you can respond, Ms. Potter.

Lauren Proper Potter: Absolutely. I want to say thank you to the neighbors. I'll probably keep my comments to a minimum, but I'm happy to answer any questions that you have for me.

Mayor Ortega: I have one comment. As you know a rezoning is effective 30 days after it is transacted by this council. So I hear that there are two independent parties that both have attorneys present that say they've struck a deal. When it comes to a city/third party transacting something, we have to be very

cautious about that in that it starts to step on the toes of our duty when the state has irreverently taken away our power regarding short-term rentals. And we have that situation which handcuffs us not able to transact something within our own purview at this time.

So with that said, although I would suggest that 30 days is too much time and you two have to make a private deal and we cannot umpire it in our transaction today. I have spoken to legal and that's the way we roll. Unfortunately we don't want to complicate the rezoning itself. So whatever you have transacted in good faith, I suggest you get it done in seven days or less and it would help everybody. Councilwoman Whitehead and then Councilmember Durham.

Councilwoman Whitehead: Thank you, mayor. I want to refer to our city attorney to Mr. Lasota's request. Unfortunately we cannot include that in a motion and I don't know if our city attorney has anything to add to that.

[Time: 01:20:34]

City Attorney Scott: Thank you, mayor and councilwoman. I wish the city could include that as a stipulation in the case. Unfortunately state law does prohibit the city from dictating the form of ownership on private property. And that's why I would be hesitant for the city to include that as a stipulation in the case. I do think the council can acknowledge that the applicant has agreed to that and there's been a private agreement and you can certainly acknowledge that in your motion. But to include that as a stipulation in the zoning case which becomes part of the zoning ordinance, I think that that would potentially run afoul of state law and probably would not be in the best interest of the city.

Lauren Proper Potter: And if I may note, we would agree to a stipulation that would require the condominium plat, but I know that it's the advice of your legal counsel that that's probably not in the best interest of the city. But nonetheless we're committing to that. I want to make sure that it's on the record, we would agree to that. We already have an application filed, we will follow through with it and that is the intent. And I want to have that stated for the neighbors, you've all heard it here and it's recorded. So it will be online probably forever. So you have some assurance.

Councilwoman Whitehead: Can you describe the original sidewalk before staff recommended because I think I have a compromise.

Lauren Proper Potter: I love a good compromise. We proposed detached sidewalks and put street trees in along 75th Street. It's how we got the inspiration for the name of the project. But we had run into some issues in terms of accommodating everything that staff desired and had some concerns of street transportation with regards to maintenance with those trees. We've kicked back a couple of plans back and forth. Poor Phil has been taking pictures of trees. We're trying to find a solution, we're committed to it. And we would love to see some kind of street tree right there as well. Right now as it was pointed out by Greg, there aren't any. So we're open to compromise and to working with staff on that.

Councilwoman Whitehead: Okay, so if I request a stipulation that you restore the detached sidewalks, install Palo Blanco street trees and agree to maintain them, is that something your client would agree to?

Lauren Proper Potter: We would like to make sure it's something that staff can live with. I see Greg over there turning red.

Councilwoman Whitehead: Perhaps assistant city manager Bill Murphy can talk to that.

Bill Murphy: Good evening, mayor. Your question in regards to the tree?

Councilwoman Whitehead: Yeah, I want to see if, we've been going back and forth. I've been going back and forth with the street trees. I think trees will add to this very pedestrian friendly area. So the question is can we add street trees with the applicant maintaining it, or will staff support that? And then the species under consideration was Palo Blanco.

Bill Murphy: We would be in favor of the fact that we're not maintaining those, similar to the development next door, we don't take care of those trees. The situation you're referencing would be a vertical tree that someone could use there and it could be something that could be considered there.

Mayor Ortega: Just to clarify, that may be handled at DR board perhaps.

[Time: 01:24:34]

Councilwoman Whitehead: I would like to stipulate it in my motion, I plan to make a motion.

Mayor Ortega: So you're asking that an arcade of trees be provided? You're specifying a specific tree, I don't know if --

Councilwoman Whitehead: I cannot specify a tree, but I'll make sure that that is something that the DR board would remark on that and maybe take input from staff.

Lauren Proper Potter: If I may make a suggestion, I think it's a good idea. One of the things we've been talking about with transportation staff is maybe not necessarily a detached sidewalk. So we can continue to provide a really wide pedestrian pathway there that's open to the public. But we've discussed maybe tree grates or another mechanism by which we could incorporate street trees. So if there was some flexibility perhaps in the stipulation that would even if it said Palo Blanco or similar street tree subject to approval by staff or transportation staff, that would probably give us all a little bit more flexibility.

Councilwoman Whitehead: Okay, I like that. All right, so I motion to adopt ordinance number 4536 proving a zoning district map amendment from service residential downtown overlay S-R DO to downtown/downtown multiple use type two downtown overlay D/DMU-2 DO including an amendment to the building setback on both street frontages to allow for a new multifamily development consisting of five units on a .2 acre site located at 3961 North 75th Street with the added stipulation that the applicant work with staff to include street trees. And with the recognition or the acknowledgment that there is a private agreement between two parties regarding 30 day leases.

Mayor Ortega: We have a motion. Councilman Durham, you had your light on.

Councilman Durham: I'll second the motion but also --

Mayor Ortega: Thank you. Now let me get a clarification from attorney. You're saying an acknowledgment and obviously we're videotaped in that discussion and declarations by both parties. Is that an adequate motion and a second that we are witnessing it, perhaps if you want to call it that?

City Attorney Scott: Mayor, my apologies. I missed the very last part of the motion. The critical part of the motion.

Councilwoman Whitehead: Yes, the last part of the motion and I'll phrase it a little bit is that we, the city council, acknowledge that there is a private party agreement between the two adjacent property owners.

City Attorney Scott: That's fine. I think that's fine, mayor.

Mayor Ortega: Okay, we have a motion and a second. We have a hand up from Councilmember Milhaven.

[Time: 01:27:53]

Councilwoman Milhaven: I have a question about street trees. If transportation has concerns about trees, I would imagine it's things like site lines and safety. So I want to understand, what I had heard the applicant say was with the approval of staff which is different than mandating that there have to be trees. So I certainly would rather see trees than not see trees, but I also think we have to rely on the professional expertise of the folks in transportation in terms of safety issues as well as, we've got trees in our downtown that are awful because they're trimmed to the point of not interfering with lines so we'd almost be better with different landscaping than we would be with that tree. So I don't want to mandate that there be trees. I'd like to defer to staff to see if there isn't a way to incorporate trees or landscaping to make that prettier. What was your intention in making that amendment?

Councilwoman Whitehead: Sorry to interrupt, Councilman Durham. Perhaps Phil would like to come speak to that. The project next door does have trees and they are trimmed. And I think it would be consistent, a nice consistent look. So I think what the applicant has been working really hard with staff is to identify a tree that's suitable and will also kind of cool down the area. So I guess my intent is to strongly urge staff to either rule it out for valid reasons or work with the applicant to get the trees in.

Phil Kercher: Mayor Ortega and members of the council, twice in one council meeting, that's unusual for me. But the concern originally arose because it is a narrow setback from the curb to the building and the original site plan as you saw had the sidewalk pushed up against the building and the residences and their doors were actually adjacent to the public sidewalk. So we requested that they move the sidewalk to the back of curb which as Greg mentioned created what we thought was a better project with the stoops and the wall between the private area and the public area.

Our concern was if the sidewalk was adjacent to the buildings, it could be somewhat taken over as private space. As far as the trees, the traffic engineer not a tree expert. So we got into that discussion. We do have an 8-foot sidewalk which is generous for this area. So what we had talked about was potentially tree grates and a few trees. There was some concern about impacting site distance. When

you do align trees in a line, you create that picket fence effect. You can kind of see that a little bit on the Main Street project. So what our request has been if we're going to do this that we have a tree that has a high canopy and that is narrow so that it doesn't affect the site lines as much. And there is limited space between where the trees will be planted and the second story overhang.

And as Greg mentioned, you're also putting it very close to the street and the street obviously has fire trucks and trash trucks and other large vehicles. So I think that we might be able to find a tree that works, but I don't know what that would be. The applicant has been looking at options and hopefully we could come up with an option. I think the spacing that they proposed is fairly good to avoid that picket fence. But again what we need is like a single trunk tree with a high canopy. I hope that helps to explain the situation.

Councilwoman Whitehead: That helps a lot. And it is the same setback as the project next door that has trees. I'm not dictating the number of trees or type of trees but just that there will be street trees in my motion. It sounds like you're agreeable to that.

Phil Kercher: Yes, sorry, Councilwoman Whitehead, I'm assuming that would be decided with the DRB submittal.

Councilwoman Whitehead: Yeah, the details, correct.

Phil Kercher: Yes, that's agreeable.

Councilwoman Janik: Thank you.

Mayor Ortega: Councilwoman Janik then Littlefield.

Councilwoman Janik: I agree with what councilwoman Littlefield said. Safety is number one, I love trees but I want to make sure that safety is the priority, not the trees. So we need to be very careful with the placement of the sidewalk. I know that when you have trees and you're trying to make turns and you can't see what's coming, it's dangerous. So again I respect what DR recommended and I just want to emphasize that safety is more important than the trees. Thank you.

[Time: 01:33:02]

Mayor Ortega: Councilmember Durham and Councilwoman Littlefield.

Councilman Durham: Thank you, mayor. I have a question about this live/work unit. You get a bonus on parking because of that, right? You're reduced by one parking space?

Lauren Proper Potter: It does reduce the parking.

Councilmember Durham: I assume the logic is if somebody is working from home, they're going to need only one car instead of two or something like that. How do you police that? And I think this came up in the staff's presentation. What assurance do we have that this is really going to be a live/work unit that's entitled for that parking credit?

Lauren Proper Potter: Thank you, Councilmember Durham. This was an issue that was raised at planning commission. And this was also something we included with our condominium plat submittals in the CCRs. We have provisions that dictate that that unit is supposed to be owned and used on the ground floor, or that if it is leased that it would be leased for that purpose as well. We have reserved one parking space during business hours for commercial purposes. So like 9:00 to 5:00 Monday through Friday there will be a reserved space. And that is all detailed in the CCNRs, so that would be the enforcement mechanism to make sure it's done as intended.

Councilmember Durham: And if you have one commercial space, that's I would guess for the customer who's going to come to that working space, whatever it is. As for the person who lives there, what parking space do they have then?

[Time: 01:34:45]

Lauren Proper Potter: So we haven't fully sussed out exactly how parking spaces would be allocated. It would probably be something like one reserved per unit and the rest would be a free for all essentially. But there is also, it's not counted in our parking totals, but there is on street parking in front of the site on McKnight as well. So there could be additional overflow, but the intent of the live/work space is to really be some kind of low intensity use. It could be an architect's office.

So there wouldn't be somebody sitting in there constantly or having turnover. But it's intended to be a pretty low intensity use. Which is why kind of to the mayor's question actually, it's no a separately leased commercial use. It goes with the unit. So that is the live/work. So it's not going to be a coffee shop or something like that that is going to have high turnover. It's really going to be controlled by the person who owns that unit. And ultimately that will be how it plays out.

Councilmember Durham: All right, thank you.

Lauren Proper Potter: Thank you.

Mayor Ortega: Councilwoman Littlefield and Councilmember Milhaven.

Councilwoman Littlefield: I also agree with Councilmember Milhaven's concerns about the trees. And I would defer to DR and staff to confirm what's safe about putting in those kind of trees. I love trees and think they're great, but I don't want to put one in at the detriment of the safety of the people who are walking those streets or living in this place. So that's one thing I would like to make sure. If we can do it, fine, I like it. But if we can't, we'll move on. And it doesn't affect my approval of this.

I was very pleased and happy to hear about the remodeling of this house. You're right, it needs it. And I think it will be a much better utilized home. And happy to hear that you have the 30 day minimum for your rental units. I think that's wonderful, thank you very much. I have to say that's what changed my vote on this is to put that stipulation when you agreed to put that in on your own. That's really all I have to say. I think this is going to be a great improvement for that corner which is obviously very close to City Hall. And I think it's going to improve the area tremendously. So thank you.

Lauren Proper Potter: Thank you very much.

Mayor Ortega: Councilmember Milhaven and Councilmember Janik.

Councilwoman Milhaven: I want to clarify the intention.

Councilwoman Whitehead: Based on the concerns I'm hearing on the dais, I think that's fine. I want to remind everybody this is a pretty low traffic volume street. I can't in my four years on this dais, I have not ever seen a fire truck on that street. So but if there are concerns, this is not Scottsdale Road, this is a small street with trees already existing. But to accommodate and I've heard now from the transportation staff that they consider this quite workable. But if that accommodates, I'm not going to stop a wonderful project from moving forward over fear of 2 or 3 trees. So I will say that I strongly urge in my motion.

Councilwoman Milhaven: Thank you.

Mayor Ortega: Councilwoman Janik.

Councilwoman Janik: I just want to plug what you've done. Infilled is difficult. You've done a great job of coming up with a really nice project. I really like the fact that you worked with the neighbors to come up with a compromise. And that is the model for what our community should always be. Thank you.

[Time: 01:38:41]

Lauren Proper Potter: Thank you.

Mayor Ortega: Any other comments? Okay. Well, in closing, thank you very much. You may sit down. I would say that Main Street Square I think started it all. That's a commendable project. And it is under heights that would have been required. So that helps generate a low scale solution that seems to have worked out. With that, we will please register your vote. Very good, unanimous.

**ITEM 17 – TRANSPORTATION ACTION PLAN**

[Time: 01:39:19]

Mayor Ortega: Next we're moving on to item number 17. Item number 17 is to discuss and adopt a resolution concerning the transportation action plan. I'll yield the floor to our city manager.

City Manager Thompson: Thank you, Mr. Mayor, members of council. We're asking that we table this matter until April 26th. There's some additional issues we wish to address in this plan prior to council discussion. So we didn't note that out. The email that I had sent to all of council earlier today, we did attach it out to the public as well as a view document to make sure they understood that potentially council would table this matter to the 26th. Thank you.

Mayor Ortega: Thank you, accordingly, we do not need a motion to take that action and you'll be preparing for that date on April 26th.

Next we will move on to public comment. Second opportunity for the public to step forward and bring a matter to council. Three minutes is allowed at the beginning of the meeting. And at the end of the meeting we see none have been requested. So I would move on. I would close public comment at this time.

Next I will move on to citizen petitions. The clerk is reporting we have received the petition and the request was read by the, by Ms. Briar. I have it in my hand so it's been duly recorded and noted. The subject had to do with the Alibar Point at Miller and Jackrabbit. We have two choices. One is to direct the city manager for further discussion. The other is to direct the city manager to investigate the matter and prepare a written response to the council with a copy to the petitioner.

And of course that recommendation could involve also agendizing something. But initially it would direct the city manager to investigate the matter and report to us as well as to the petitioner. And then third would be take no action. So I would ask if there's any clarity. I see councilwoman Whitehead and Councilmember Durham. Go ahead Councilwoman Whitehead.

Councilwoman Whitehead: I know this spot really well and it is dangerous. I have a question for the city manager, would it make sense to agendize this along with the other transportation request, the other transportation citizen petition on 68th Street? Would it make sense to bundle those up and discuss both at the same time?

[Time: 01:42:23]

City Manager Thompson: Mr. Mayor and members of council, Councilmember Whitehead, by all means we could bring them back together. I think they both require consideration associated with in this case a little bit different because they've added a couple of additional thoughts within the petition. Not just line of sight so it's a little more entailed than the other, it might take a little more time to look at it.

Based on some of the pictures and also having familiarity with the area, some of the things in the request, we would have to take a more in depth look noting that only on one side of the road is there a bike lane, not on both sides of the road. So there's some other challenges in that area because of our right-of-way. Similar to the other, but this one is far more challenging in that sense. So this one might take longer, so if you want to hear the other one sooner, otherwise this will probably take a little bit longer to prepare a response and come back.

Councilwoman Whitehead: In that case, I would want to keep both items separate. It sounds like that's your recommendation?

City Manager Thompson: Yes.

Councilwoman Whitehead: Okay, I would motion to direct the city manager to agendize the petition, but I'll wait and hear what my colleagues have to say.

Mayor Ortega: I think we might need more facts so he could at least outline, for instance if there's a way to go for a calming request without having that come before council. There's other traffic -- I believe item number two might be more appropriate for them to be prepared on a staff level.

Councilwoman Whitehead: I'm agreeable to that.

Mayor Ortega: Thank you. I would second that item number two to direct the city manager to investigate. Certainly there are more paths to move forward. So we have a motion and a second. Do we have discussion? Councilwoman Littlefield?

[Time: 01:44:28]

Councilwoman Littlefield: Yes, mayor, thank you. That's what I was going to suggest is action number two to direct the city manager to investigate and come back to us. Thank you.

Mayor Ortega: Thank you, that closes discussion. Please register your vote. We do applaud the petition process in Scottsdale. It's part of our charter and appreciate that these came forward for discussion and action. At this point we would ask for any mayor or council items which is also on the agenda. I do not see any requests, nor do I have one. So that item of mayor or council item is closed. And at this point I would request a motion to adjourn.

Councilwoman Janik: So moved.

Mayor Ortega: Thank you, and I see a second?

Councilmember Durham: Second.

Mayor Ortega: Second by Councilmember Durham. Please register your vote. Unanimous, we are adjourned. And there's still some sunlight outside, wow.