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**CALL TO ORDER**

[Time: 00:53:48]

Mayor Ortega: Hello, good evening. I call the May 3<sup>rd</sup>, 2022, City Council Regular Meeting to order. City Clerk Ben Lane, please conduct the roll call.

**ROLL CALL**

[Time: 00:54:02]

Clerk Lane: Thank you, Mayor. Mayor David Ortega.

Mayor Ortega: Present.

Clerk Ben Lane: Vice Mayor Tammy Caputi.

Vice Mayor Caputi: Here.

Clerk Ben Lane: Councilmembers Tom Durham.

Councilmember Durham: Present.

Clerk Ben Lane: Betty Janik.

Councilmember Janik: Here.

Clerk Ben Lane: Kathy Littlefield.

Councilmember Littlefield: Present.

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. Thank you, Mayor.

Mayor Ortega: We have two police officers here and Firefighter Austin Hendricks, should anyone need assistance. We will have the Pledge of Allegiance. Councilwoman Littlefield.

[Time: 00:54:46]

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

Mayor Ortega: It looks like we have some distinguished visitors here as well, and I would -- I will go into my mayor's report right now and then do the acknowledgments. So we continue to keep

the Ukrainian people, the Ukrainian nation in the forefront of our thoughts. So let's pause in silence as we hope for their freedom and their fight for their nation.

[ Moment of silence ]

Thank you.

[Time: 00:56:16]

Well, the McCormick stillman railway park concert series is back. The park successfully had their first concert this past Sunday and there will be concerts every Sunday in May. They start the 7:30 to 9 p.m.

Also this is teacher appreciation week, and I know that we all think of a teacher mentor, someone significant at whatever level we were in school. We happen to have three teachers in our family.

So, of course, it's always a positive thing to support education and the teachers. I do see some red shirts out this, and if you could just tell us your name or come up forward just to say hi. Will you, please?

Audience member: You want us to come up?

Mayor Ortega: Yeah, just come on up to say hi. We noticed the Pledge of Allegiance was pretty enthusiastic. It's nice to have you here, and perhaps you could just say hello to us. The microphone is right here at the podium. Yay! I see Navajo, of course. That's wonderful.

The kids from Navajo, they just reopened the Navajo school and, of course, our principal is here and several family members. Hello.

Matt Patzlaff: Hello. Thank you for having us tonight. My name is Matt Patzlaff and I'm the principal of Navajo Elementary School.

Abbey Mullen: My name is Abbey Mullen, and I'm the copresident for the Navajo Student Council.

Johnathan DiDomenico: I'm Jonathan DiDomenico and I'm also the copresident for Navajo Student Council.

Sonia Hunsly: I'm Sonia Hunsly and I'm the scribe for the Navajo Student Council.

Kayla Pose: I'm Kayla Pose, and I'm the treasurer at Navajo Elementary.

Justin Monroe: I'm Justin Monroe, and I'm the vice president for Navajo Elementary.

Stacy Newhart: These are five of my six student council officers. I'm Stacy Newhart, I teach fourth grade at Navajo, and I'm their advisor for student council.

Easton Mullen: I'm Easton Mullen, proud parent of Abbey Mullen, one of the copresidents, and I'm in the dad's club and volunteer from time to time for the school. Thanks.

Ray Durant: I'm Ray Durant, also in the dads club. I have students who are not here, but helped build the float and other volunteer work.

Mayor Ortega: Thank you very much. And let's hear it for Navajo.

[ Applause ]

Mayor Ortega: There was a catastrophic fire at Navajo elementary and the rebuild happened and it's amazing the population has grown and all the enthusiasm. I was there as well, when the school board members cut the ribbon again. Thank you very much.

We will move on with the next part of our program, which is the Parada Del Sol parade award presentation. We have the committee members here. And to make the presentation, includes Dr. Joe Decka, other members in attendance Jose Leon and Tim Garvin. So why don't you tell us about the program.

Joe Decka: Well, it's my great pleasure and honor to be here to speak about the Parada Del Sol, which was a fantastic event we had on February 5<sup>th</sup> it was extremely well attended and we couldn't be happier.

I'm a Scottsdale Charro, and also on the Parada committee and we were very pleased with how it turned out. So thank you. This couldn't have been done without the help of the city so a great thanks up there. There's a lot of familiar faces on this slide.

We are very indebted and grateful to the city, and we are honored to be putting this on. The Parada Del Sol committee members, they have been doing this for years and cheers and the charas we didn't know what the parade was about and we leaned on this list of folks very, very heavily, and it involved the Koziol family, who were instrumental. Wendy Springborn, Dennis, the Chipettis, and Lonnie Gibson who is here. Where is Lonnie? Thank you, Lonnie. Gary Cooper, Shelley Cooper, Tony Gardella, who the mayor knows well, and a host of others.

[Time: 01:01:33]

This was a true banding together of these folks to put on a great event. Our theme was back in the saddle and it was, I mean, way beyond that. We had the heaviest attendance ever for a Parada Del Sol well over 35,000 folks and we had close to 100 entries in the parade, which was, we are the west's most western parades. And we are really happy it turned out the way it did.

Costs as in everything, we were talking just back in the back about costs overrunning for builders and contractors everywhere. And the same held for Parada. We ran the financials. We did a good job of accounting and the cost for this year was three to four times more than two years ago but thankfully through the efforts of our community we were able to raise \$125,000 in addition to what city so graciously provided and that allowed us to break even on the event.

The marketing was fantastic. We had a small amount in paid advertising and the marketing partners that we worked with came through in strides. It was almost \$800,000 in free marketing, which led to 11.2 -- almost 11.3 million impressions on social media and different forms of print and video.

There were many mentions with the city of Scottsdale as the host city and there was a lot of buzz about the event leading into it which led to our huge attendance and this is the best part. So you met the students and parents from Navajo Elementary as well as the principal, they won the best school entry.

They had an amazing entry with over 100 folks in their little section with the float that was built and they were a crowd favorite. Thank you guys for --

[ Applause ]

Y'all should be really proud. Navajo holds a special place in my heart because I was their school rep last year. The best city of Scottsdale operation was operation fix it. We have Michelle Holmes here who is representing them.

[ Applause ]

Did April amazing job. The best native entry was at patchy rider -- the Apache riders and these guys were awesome on their horses. They had the full door. The best Hispanic, the prancing horses, they are amazing riders and always a crowd favorite. Best, the Marshall's most patriotic, sons the American Revolution. And the crowd favorite was the dancers. They have more energy than anybody I have ever seen in my life. They danced the whole way and it was in that and it was hot and they did amazing and it was awesome.

[Time: 01:04:36]

We have got spirit was the little mini horses that were running around they had one that was pulling a cart that said "back in the saddle" and that was our theme of the parade. The best youth was the 4-h cloggers entry. The first time was a transplant community, they had a good contingent there, and were well represented.

The Hometown favorite Laguna, most original was if you saw -- if you were at the parade, you saw one parade with all the power boards and being pulled behind Jeeps. The judge's choice,

and the best overall were the Charros. And here's some pictures from the parade. This one on the left is Jose Leon who was the Parada pass for last year and I'm lucky that I was selected to be that for next year and I'm hopeful that next year's report is as glowing as this one and then there's a few more pictures showing the good times that we had and how successful the parade was.

The bands looked amazing and the floats looked amazing. A big thanks to Oliver Smith jewelers. They were our title sponsor and they came through in a big way and had a big presence at the parade. It's a successful event, going 67 years strong. Thank you very much for your time.

[ Applause ]

Mayor Ortega: Hold on Dennis. Let's get a picture with Navajo up front. Come on, kids.

**PUBLIC COMMENT**

[Time: 01:07:13]

Mayor Ortega: Well, at this point, we will continue with our agenda. The public comment is an opportunity for Scottsdale citizens to come forward on any non-agendized item. We -- that is within the council's jurisdiction.

No official council action can take -- be taken on something which is not on the agenda. And just a reminder, if you did want to speak to an item, of course, you can look at the item number on our agenda. I do have one speaker, Thomas La Porte with save the trees organization.

Tom La Porte: Thank you very much. Honorable mayor and council people, my name is Tom La Porte. I'm here to give you an update on the sister tree situation in the sober leaf Arcadia neighborhood.

On August 19<sup>th</sup> of 2021, the DRB voted unanimously to deny the DC Ranch HOA's request to destroy 670 of the approximately 1,000 Sissoo trees in Arcadia. At the conclusion of that meeting, Councilwoman Littlefield strongly encouraged the HOA to engage in discussions with the Arcadia residents in an attempt to achieve a negotiated settlement regarding the trees. Within days of DRB decision, the residents reached out to the HOA with a formal five-point proposal as an attempt to open a dialogue.

Overture was rejected, as have been at least four additional requests by residents of the neighborhood. Instead within weeks of losing the DRB, the board passed to remove the Sissoo trees. This prohibits residents from touching the trees. Shortly after that resolution they passed another resolution that incentivized the residents to remove the Sissoo trees.

It's kind of like the hitman couldn't make the hit himself, so he paid somebody to do it. And that is what is going on, the city would not allow them to do it. In the DC election, in approximately 10,000 people Arcadia was denied representation on the board. Shortly after that election, we

reached out to the new board president with a new proposal, offering to take on all future liability of the street trees if the HOA would allow us to use artificial turf in the front yards.

For years they told us if we accepted liability for the trees, they would allow us to keep them. The president said he would take it under consideration, but he has not gotten back to us. In the meantime, five residents have accepted the HOA's bribe and removed the Sissoo trees. This has put huge holes in the neighborhood shade canopy. The neighborhood street temperatures are 35 degrees cooler than outside street temperatures in the summer.

[Time: 01:10:32]

What is the purpose of the Scottsdale design principles that call for the creation of shade canopies and enthusiasm committees if we are going to allow a rogue, environmentally insensitive HOA to destroy all that has been created in 20 years. Tomorrow, we will fire off five code enforcement requests with the city.

We ask for you to intervene in any way possible and maintain the integrity of our community. I'm not an attorney, but in reading the city ordinances it appears that the city has the power to enforce the DRB's decision and if it chooses to do so. If they allow them to destroy the microclimate which has been created in the Arcadia neighborhood without lifting a finger to stop, it one has to question the true commitment to an environmentally responsible Scottsdale. Thank you very much.

Mayor Ortega: Thank you, Mr. La Porte. We will continue with the consent. We will go to the consent agenda. One through five. And number five has been pulled by staff. So we will be taking action on consent agenda items 1 through 4. And at this point, we also open up public comment on any of the consent agenda items, and I show that there is no comment on items 1 through 4. Also if the colleagues council have questions for clarification. I see no items on that on items 1 through 4. And so at this point, I will ask for a motion and a second.

Councilmember Whitehead: Mayor, I will make a motion to accept consent items 1 through 4.

Mayor Ortega: You mean approve.

Councilmember Littlefield: Second.

Councilmember Durham: Second.

Mayor Ortega: Thank you. We have a motion and a second. Please record your vote. And I will call on Councilwoman Janik.

Councilmember Janik: Yes.

Mayor Ortega: Thank you. Unanimous.

**ITEM 5A – ARTISAN SCOTTSDALE REZONING (3-ZN-2021 AND 3-DA-2021)**

[Time: 01:12:55]

Mayor Ortega: Next, we will move on to the regular agenda items, beginning with 5a, the artisan Scottsdale rezoning, case 3-ZN-2021 and 3-DA-2021, presenters Bryan Cluff, principal planner and then the politic.

Bryan Cluff: Good evening, Mayor, Vice Mayor and councilmembers. I'm Bryan Cluff with the city's current planning department. I will give you an overview of the applicant's request for Artisan Scottsdale case 3-ZN-2021, as well as 3-DA-2021.

The specific requests this evening from the applicant is to adopt, the central business downtown overlay, to the Downtown/Downtown multiple use. It's for a mixed use that includes 83 dwelling units and 85,000 square feet commercial square area and it includes artisan Scottsdale plan. This is along Marshall Way. There's a closer look at the site.

West of Marshall Way, south of Indian School Road and north of first avenue, currently, it's a vacant lot that is used for overflow parking. You can see some local area businesses in the area consisting of one, two and three-story buildings. This is the existing zoning on the property.

The c2 and then the requested zoning with the downtown multiple use type 2 plan block development over the majority portion of the site and then this corner over here on the southeast is the downtown core type one also with the plan block development downtown overlay. This is the site relative to the Old Town plan land use table.

A closer look after that here shows a portion of the site and the downtown multiple use category shown in green, and then the east portion and the downtown core in blue. This is the Old Town plan developments map. This is split between the type one and the type two areas with the blue and the green.

This is a look at the proposed site plan for the development which is on approximately 1.92 gross acre site. It is broken up into two buildings, the northern building including about 60 dwelling units. Access to the site is provided into a below grade garage off of first avenue in this area here. The alley that currently bisects site will also remain open. A couple items to note.

The 84 units come to -- there's a three level below grade parking structure that's providing parking for the development. Within that, the city is entering into an agreement with the developer to construct 55 public parking spaces pro he posed to be located on that first below grade level of garage.

The southern building located here is where the approximate 5,000 square feet of commercial floor area would be. And then I will also note the applicant is proposing a couple public open space areas, one in this area here at first avenue and Marshall Way and then another here at

Indian School Road and Marshall Way.

This is the proposed landscape plan to go along with the development to note here, the applicant is constructing new sidewalks surrounding the public streets around the development, on Indian School Road landscaping in a new 10-foot sidewalk that continues down Marshall Way within 10 feet and then also on first avenue.

[Time: 01:18:00]

These are the proposed building elevations and on the top is the north avenue which is fronting Indian school road and on the south is -- or on the bottom is the southern elevation on first avenue. The proposed building heights for the northern building is the caller building, it's at approximately 63 feet.

And that's inclusive of the mechanical equipment, and within the 66-foot building height that's allowed within the type two area without modification or bonus requests. And then this other building on first avenue and Marshall Way, is approximately 52 feet in height and that's inclusive of mechanical equipment, and within the 48-foot building height that's allowed in the type one area with an additional 6 feet of mechanical.

Here is the additional elevations of the east side fronting on Marshall Way on the top. And the west elevation on the bottom. With the request for plan block development, the applicant can request amended development standards from the standard downtown requirements with this application, they are requesting one amended development standard, and that has to do with the building location requirements of the downtown district and because of the curve along Marshall Way and the combination of type one and type two development types, which the red line that you see here illustrates the boundary between type one and type two there.

So that creates challenges in complying with those building location requirements due to different setback requirements for those different types. So what the applicant is requesting is to amend that standard to allow a greater setback. Typically in the type one areas, on this side would be minimum requirement of 14 feet. And portions of the building would need to be at that 14 feet.

Within the type two would be a minimum setback of 20 feet and the applicant is requesting to change those to be minimum setback requirements to allow them to set the building back further in certain circumstances and you can see what they are proposing here is a minimum setback of 22 feet which is greater than what would be required, and it would be per the development plan as shown on the screen here.

For -- with regard to the development and the sale agreement that's included with this request, there are some conveyances that include some city remnant parcels of old right-of-a acquisitions, that the developer is proposing to quire. Also the city is proposing to require those 55 public parking spaces within the garage and the garage easement to provide the public

access rights to those parking spaces. There is also construction timing included within the development agreement, that addresses construction start times.

The applicant would be required to commence construction within three years of approval. If they were unable to perform, then the applicant and/or the city could initiate a reversion of the zoning back to the zoning prior to approval.

Additionally, there is construction mitigation plan proposed upon the development -- within the development agreement that I will touch a little bit more on later. It addresses traffic routes, workforce vehicle parking, construction vehicle parking and that is an exhibit to the development agreement. Other boards and commissions, this did go before our development review board at their January 20<sup>th</sup>, 2022 meeting.

They forwarded a recommendation of approval with a 5-0 vote and additionally it went before the planning commission at February 3<sup>rd</sup>, 2022 meeting and they forwarded a recommendation of approval 6-1. Public involvement, has involved staff and applicant notifications of the typically 750-foot radius. I believe the applicant exceeded that radius with their notification.

They had an open house meeting February 8<sup>th</sup>, 2021 and also follow-up after that at multiple times after the -- after the initial open house meeting. Comments have been received, several comments both in favor and in opposition. Many of the concerns that were brought up by the opposition is had to do with traffic, access points, building massing, construction impacts and parking.

And then a little bit more about the construction mitigation plan, more recently, the construction impacts that the project might have on surrounding area businesses has been the focus of concern, of a lot of these comments. With emphasis on potential closures on first avenue, as well as closures or limiting access to the public parking.

[Time: 01:22:59]

And so as I mentioned before, staff since planning commission has been working closely with the applicant and developer team on drafting up a construction mitigation plan that has been included, as exhibit p1 in the development and sale agreement, it will mention the existing plan does not propose any closures to first avenue or limitation to access of public parking spaces on first avenue, however it does provide for flexibility for the city to make potential modifications to that plan, as may be needed for potential public safety or other issues that may arise.

Additionally, the applicant has worked with the local area property owners on a private agreement that further restricts some of the items related to the public parking on the street and the applicant can go into additional detail on that. So in conclusion, just reiteration of the request this evening for the zoning district map amendment ordinance number 4535, as well as the resolution for the development plan and development sale agreement. And that concludes staff's presentation and I'm happy to answer any questions and the applicant is also here with a

presentation prepared.

Mayor Ortega: Thank you. Whoa! We will move on to the applicant and then open public comment in this case.

John Berry: Mayor, members of the council, for your record, John berry, 6750 east Camelback Road in Scottsdale. The artisan is a pedestrian-friendly gateway to the arts district. It implements long held community goals for our city, including the provision of two public art plazas, and 55 new public underground parking spaces. Now, locating the public parking in this area of downtown was supported by the voters.

Now, the city came to us to meet that need. The city recognized this a strategic location, where businesses and visitors and residents could take advantage of this parking. Now, the city wanted us to build 55 public spaces. Now, they recognized that the private sector can actually build more spaces for less than the public sector can. So the city came to us and said would you build this for us? We said, sure. Then they said, well, would you maintain these spaces for the public and we said, well, okay. We'll do that too.

[Time: 01:26:24]

And then they came to us and said, well, we want the best location in the underground parking for the public parking garage, and we said, okay, we agree to that too and we will benefit, and the taxpayers are benefiting by getting more for yes. We also said yes to achieving an important general plan goal. We are doing so with two public art plazas approximately 10,000 square feet. Again, built and maintained by the builder, not by the city. Not by the taxpayers. Again, the taxpayers benefit.

At first avenue and Marshall, we will turn a barren corner into a spectacular and meaningful public open space if our Old Town. At the very visible corner of Indian school road and Marshall Way, there will be a new gateway to the arts district with a very unique feature and a first for the city.

In collaboration with the gallery association, we will be providing free of charge a window to main street at this intersection. What do I mean by that? It will be a space 26 feet by 11 feet that will in the parlance and the marketeers it will be a teaser space for main street and the galleries with display space and a video wall that will attract folks to the galleries and main street, off the Indian school and Marshall Way area.

Now, staff referenced that we were requesting one amended standard. That amended standard is to move the building further away from the streets. This orange area on both sides of the south building, this orange area is the area where if we did not ask for this amended standard and move the building further away, those orange areas are where the ordinance would allow us to put four-story buildings closer to those streets. So this building would be larger with a larger footprint. Now what does the development standard mean for the public? A smaller

building footprint and a better pedestrian experience.

Now, staff noted that we are not asking for any bonus height or density. And the type one area, the base is 54. We're at 52. And the type two area, the base with no bonus is 72 feet and we are at 64 feet. The density that would be allowed at the base would be 96 residences. We are at 83 residences. The artisan is over parked. We have a surplus of 21 spaces. What does that mean?

The guest space ratio will go from the required one guest space from every six residence. What about traffic? I want you to keep in mind that this property has c2 zoning today that will allow a plethora of uses. By right, no city council and to planning commission, straight to DRB. Those uses compared to the artisan use you are hearing this evening, those uses in c2 will generate 49%. It will generate 49% less automobile traffic but very importantly more pedestrian traffic. Staff referenced the construction mitigation plan.

We listened to the businesses in this area, and I will tell you that I'm not aware of any project that has ever, ever gone this far to do so much to minimize these very important construction mitigation impacts -- the construction impacts to these businesses and that's been a three-pronged effort.

The first prong is a stipulated, very detailed construction mitigation plan. The second prong and this is a first in the city is this off-street parking plan enforcement agreement which is a private agreement that will be recorded between the builder and area businesses that will ensure that off-street parking is required and utilized for the workforce at this site.

[Time: 01:30:52]

And finally, the third prong, something I'm pleased to let you know is as of last Friday, last Friday, we actually have signed a lease with a property owner about 500 feet away to the west to use their 16 spaces on that parking lot.

Now, in phases one and two of this, as they build the underground parking structure, there will be about 20 workers on site. So we believe we can accommodate all of those 20 workers on site, but if we can't, then we have 16 spaces 500 feet way for them to utilize. When it comes to phase three, after the parking garage is built, all of those workers will be able to work in the parking garage and if for reason they can't, this plan that we entered into requires us to go find other off-street parking, additional off-street parking for those workers.

Mayor, members of the council in conclusion, I would like to talk about some of the community benefits associated with this project. Clearly the most important one is transforming this vacant eye sore into an oasis with two public art plazas of about 10,000 square feet. No additional request for height or density. The single amended development standard moving the building further away to the street to the benefit of the public.

An investment approximately \$40 million in our Old Town, less traffic than the existing zoning uses that could go there today. New 10-foot shaded sidewalks to enhance pedestrian comfort. We implement the city's sensitive design principles, as well as the urban design and architectural guidelines. There's a substantial public art contribution. We are over parked. Talking about parking. This is a substantial benefit to the tune of about \$1 million today to the taxpayers the city came to us and said, we will pay you \$1 less than the \$40,000 it would cost us at the time we entered into this to build these parking spaces for you and for the public.

Well, as of early this year, the cost to build those spaces is now close to \$60,000 a space. We went to the city and said, geez, costs have gone up. We don't want to -- could you be willing to, like, maybe meet us part of the way and not have us absorb the new costs, the increased construction costs like they talked about at the Parada Del Sol. The city said, no we think it's a good thing for you to do it.

It's about \$1 million based on the cost of the parking spaces today that we have agreed to do for the city along with maintaining those spaces. Now, I would bet you dollars to doughnut that between the time of this hearing and if it's approved and when this starts construction, I don't think those costs are going down. And we will be required to stick with the \$39,999 price to deliver those parking spaces to the public, and then maintain them for you.

We talked about the efforts we have gone through to deal with the concerns about construction mitigation. All very valid concerns for these area businesses. We have done so, we will be reducing the urban heat island effect. We will be more than doubling. More than doubling the amount of trees on this site, short-term rentals are prohibited. As staff noted we are stipulated to commence construction within three years.

[Time: 01:34:13]

We have this unique and first collaboration with the gallery association to provide this teaser window to try and attract people down to the galleries, off of busy Indian School Road and Marshall Way intersection. The regional office for this builder, for my client, the regional office will be on site. There will be pride and eyes on this development.

We are creating very importantly a long-term deal of this council and this community to create meaningful Old Town public open space. Mayor, members of the council, we are pleased to be here with the staff recommendation for approval. We worked very hard for that, and they have been very tough on this and we are pleased to be here with the recommendation for approval. We are here with a unanimous recommendation for approval from your DRB and a planning commission recommendation for approval on a 6-1 vote.

Members of the council, I'm happy to answer any questions you have or wait until after public testimony and I would note I got this done with 3 seconds to spare. I'm going to charge double for that, but I got it done with 3 seconds to spare. So thank you.

Mayor Ortega: We do have one hand up from Councilmember Durham, but I also have seven people for public testimony or comment. Go ahead, councilman.

Councilmember Durham: How can you ensure or guarantee that that first level of parking is going to be reserved for the general public and not used by tenants of the buildings.

John Berry: Mayor Ortega, Councilmember Durham, that was a question that arose early on when we met with some of the businesses in the area and we have been meeting with them for, gosh, a year and a half, I don't know how long it's been. The way we addressed that is an expensive solution. There's a separate elevator core and separate stairwell that it dedicated to just that first floor of public parking.

That elevator core does not take you into the building. The stairwell does not take you into the building. There is a separate private elevator core for the bottom two levels where tenants and guests park and interestingly that takes you into the building, cannot does not stop at the public parking level, neither do the stairs open up into that level.

So we have a true bifurcation of the access for somebody who wants to use the public level and still somehow get into the building. So we have tried to discourage that as much as possible. The other thing I would note is that we have excess guest parking on site. So we have substantially more guest parking than required by the ordinance. One guest parking space for every six residents is the ordinance requirement.

We're 21 spaces over with the excess parking spaces, we will be at one guest parking space for every 2.4 residences. We are providing even more parking than you approved last year for our requirement for guest parking. We think in combination of those, that that level of public parking will to the greatest extent we can control will be truly public parking.

[Time: 01:37:33]

Councilmember Durham: Thank you.

Mayor Ortega: Well, very good. We will move to public comment. Oh, wait, I have one question for you. Mr. Berry, you used the word "mixed use. And actually, less than 1% of the built space is for office, I believe, and -- or other commercial use. So it seems like 99 -- over 99% of it is residential, yet the term mixed use, how do you justify that?

John Berry: Mayor Ortega and members of the council, we actually on the ground level, which seemed to be the -- where the community will interact with this building is on the ground level with the street. With the two public plazas that we are providing, we think that is a significant benefit to the public and the idea that ground level mixed use is to activate the street to create vibrancy and something that attracts people. You don't have a dead space.

And so you want to attract people back and forth activity and vibrancy. That's what the two

public art plazas do. Additionally, the units, the residences along Indian School Road will actually open up to the sidewalk. So they will have their -- a door and patio on Indian School Road and that also activates the Indian School Road frontage.

As to the ground level of this building, again, where the interact occurs and where we want that sense of pedestrian activity and vibrancy, which is eyes on the street, safety, I would note that across the street this morning at the city's -- what's that? Falls Park. Or falls -- what is it called? The -- Horseshoe Falls. Thank you very much. That was not a lucky answer with the horseshoe.

So horseshoe falls park, I unfortunately noticed and was terrible to witness, but, you know, two homeless people that were utilizing that as their abode, which was too bad. But I would also note on the ground level here, 64% of the ground level of this building is nonresidential use. So I think we have tried to address that ground level. Thank you.

[Time: 01:39:58]

Mayor Ortega: Good thank you. Next, we will move to public comment. We have Jimmy Erickson and then Sonnie Kirtley.

Jimmy Erickson: Mayor and city council, my name is Jimmy Erickson. Did I do something wrong?

Mayor Ortega: If you could move over to the mic.

Jimmy Erickson: Are you sure? Okay. I've been a jeweler in Old Town Scottsdale for 39 years. I have been in four locations. I was on Fifth Avenue. I was on Goldwater. And I was on Marshall Way and I had to of move from each location because there was no parking. No parking. No parking.

26 years ago, I bought the property right across the street because there would be parking there, and there has been, but now we're facing a problem, there's going to be to parking. All the people on first avenue, the 14 businesses, we're destination shops. We are not people who walk down the street and walk into our store. Never happen.

In 26 years, I never had one person walk into my store and say, hey, I was walking do you remember the street, what do you do? No, all the people that come in, they know what I do, and they know what they want. This is the same for me and this is the same for Jim Sudal's ceramic arts. In order to be a destination shop, we must have parking.

If we don't have parking -- most of my ladies who come here, they are 60 or 70 years old. They don't park in underground parking. I have been doing this for a long time and I plan to do it another 10 to 15 years but in order to do, it I need to have people find a place to park. And this is a disaster parking situation. Now they at the it's going to be easy with underground parking. Most people don't like underground parking. I hate it myself. I don't want to park underground. What a horrible thing. Most ladies don't like underground parking. That's even worse. So, no, it's

not a good idea.

And trying to talk to making this pedestrian walkway, that's crazy. Scottsdale did this 30 years ago when they changed the location of Marshall Way from -- I was on the Marshall Way retail association at that time, and it was going to make it so much easier. We were going to have all the people from the Marshall Way art walk to first street. My window and bench face the curved street. There's nobody ever walking it.

That's just a goofy idea that somebody thought about years ago and it didn't work. It didn't work then. It's not going to work now. You are going to put this building right across from -- not only my business but my home. I built my home there. I have lived there for 14 years and now I get to wake up with all of these people going in and out of their driveway. You've got to be kidding me.

The entrance to the property, if you approve it should be on Marshall Way. Definitely not first avenue because if you put on first avenue, you are going to kill all the businesses. You might as well just shoot us all now, because we will not have any businesses because there's not going to be a place to park. That's a big problem. So you've got to stop this now before it gets started or otherwise, I'm out of business.

Jim Sudal is out of business, and I can go on and on, and list of number of people out of business but it's just going to be the way it is. You've got to stop it. If you don't improve -- okay, I know John berry. Great going to build something great. But you can't ruin the people that have been there a long time. It's just not fair. Most of the people on street have been there, 10, 20, 30 years or more and now it will be all dead. Why?

Mayor Ortega: Thank you, Mr. Erickson. Appreciate it. Sonnie Kirtley and then Danielle Pomossi.

Sonnie Kirtley: I don't know where we are on the clock. My name is Sonnie Kirtley. I'm here representing the COGS, Coalition of Greater Scottsdale Board of Directors and our address on is file. COGS supports the construction mitigation plan negotiated by the merchants and owners with the John Berry and Artisan team. The inclusion of an emergency only closure by the city is a critical amendment to that document we particularly appreciate the respect, the artisan team has done straited -- none straited towards the businesses and understand the severe negative impact on a closed public street to the livelihood of those businesses.

[Time: 01:45:08]

Looking ahead to the future, C.O.G.S. will strongly support a city council directive to staff to draft a city-wide construction mitigation plan. There are many, many cities that already have this, as an example for them. Thank you.

Mayor Ortega: Thank you. Danielle Pomossi, then Marilyn Atkinson.

Danielle Pomasi: Thank you, mayor and councilmembers. I do have a map here. I don't know if someone can turn this Elmo on. There we go. My name is Danielle Pomasi and I reside on East Minnezona Avenue in Scottsdale. Alvin Yono the owner of four parcels 707, 7015, 7025, and 7029 all across the street from the proposed artesian could not be here tonight because he's ill.

I wanted to read his letter for the record since he's a significant property owner in the area. Dear mayor and councilmembers as a nearby property owner on first avenue, I'm writing ask for your support for the artesian Scottsdale project located at Indian school and Marshall. The artisan will add to the area.

This corner is an important one for city and deserves to be more than a dirt lot. A sensitive and appropriate development such as this one is welcome for this area. I urge you to support this project. Sincerely Alvin Yono.

You should have a copy of this letter at your seat along with a copy of a letter from the coach house which is immediately adjacent to the site. Thank you.

[Time: 01:47:23]

Mayor Ortega: Thank you. Next we have Marilyn Atkinson and then Bob Pejman.

Marilyn Atkinson: Good evening, mayor and council. I'm here to talk about the mitigation plan. This is something that needs to be done in all of the areas. As a matter of fact, all of Scottsdale. I have property that's in historic Old Town on brown avenue. We will be coming to you, I'm sure, down the road shortly, to push forward a mitigation plan. Parking is key to survival of business owners. You cannot survive without parking.

We already have a shortage of parking in the downtown. If construction vehicles take over an area, where are they going to park? How are the merchants going to succeed in their businesses because you are not getting in the customers that you had. If those of you who were in the downtown during the season, you have notice -- and I noticed even now, our season has run late.

There are still people coming. There are still a lot of people on the street. One the folks mentioned parking underground. We can say old fashion square has that. They are a whole different animal. We have at the buckboard trail parking -- I'm sorry, the parking corral parking lot underground, and it's not used. Hasn't it been used. It's been this for years.

So we do support always a mitigation plan for each individual area and for parking off site. We hope the council takes this into consideration and considers it for a public city-wide ordinance because it has to offer mitigation plan of some type. Thank you very much. My address is on record.

Mayor Ortega: Thank you, Marilyn. And next we have Bob Pejman and Susan Wood.

Susan Wood signed up. She offered her time to Bob Pejman. So we'll make it at five minutes.

Bob Pejman: Thank you, mayor Ortega. The number is Bob Pejman. The address is on the record. And most Old Town business owners don't oppose development in Old Town but when a development gets this close to the heart of the shopping hear where it could have a negative impact on the local businesses.

When the canopy was area because it had plenty of staging area, not one merchant complained about construction mitigation. I want to put that in perspective. Specifically on first avenue, they have a major parking issue right now and for people who say, you know, it's all a bunch of hyperbole and exaggeration, the gravel lot today is being used for parking overflow.

[Time: 01:51:31]

There's a major overflow that lot, that gravel lot is being used as an overflow lot for a nearby restaurant and nearby bar who happens to support this and at times there are, 40, 50, 60 or 70 or more cars parked there. That lot obviously goes away. And it's a private lot. It's not the developer's fault. It's just a fact.

That's the main reason that we are concerned about preserving as many of the street spaces as possible during the construction. Now, let me put this on the projector here. This is an example of that lot, for example, that the artisan will be built on. The cars are trying to make it to it and they have to wait for space.

Here's another example. Just to show you how sort the parking is in that area. Now for a large construction like this, there usually two categories of adverse effects. One of it is that construction vehicles can park and large crews of construction vehicles will park on the surrounding streets and the other one is that streets can be closed off by the city for public parking.

First piece of that has been addressed through a private agreement between the by owners and the developer and there's a private agreement John berry says it will be public record. I'm happy to report that this agreement has now been signed in the short three days by 43 local businesses. That's how concerned they are about this. But this agreement, basically all it does is that the developer commits that the construction vehicles will be parked offsite and not on specific treated in the area.

The city could have easily entered into this agreement with the developer and as a last resort, we entered into the agreement. There's still one key piece that has to be addressed and that is the city keeping the parking spaces open. Let me put this open the slide projector. Two blocks west of that construction site, the artisan construction site, this is similarly a larger sized construction.

The city has allowed all of the parking spaces, every single one of them to be blocked off so the

public can't park on it. They have construction material. And to me, this is picking winners and losers. The developer is the winner, obviously in this case because they have all this use of this space, the same space that the merchants rely on to serve their customers -- on for their customers.

There's a construction mitigation plan that's attached to the development agreement, but we need concrete language because Bryan Cluff, he mentioned that this is flexibility. This is what flexibility looks like by the way. This is the visual of flexibility. To guard against this, we need just a one line language that says that the street spaces on or around the artisan shall remain open to public use, except if there is a case of an emergency and to me, an emergency is the cranes falling and there's sewer leakage and not ongoing three-year construction like this. Thank you.

Mayor Ortega: Thank you. Next we have French Thompson and then Mr. David Michael Miller.

[Time: 01:55:59]

French Thompson: Mr. Mayor, Vice Mayor Caputi, city councilmembers, my name is French Thompson. I live in Scottsdale. I have a little thing to put on the screen also. This is the simple sentence that we would like to have added to this agreement. Very short little thing. But what it does is it says if we close off any public streets, citizen streets, streets we all paid for with taxes, they are only given to the developer for an emergency. Only for an emergency.

As you saw in the photographs that Mr. Pejman, the city has given away an entire block. An entire city block of public property to a private developer. To put their construction materials on to put their cranes. There's four restaurants right across the street that, that all of their parking has been taken away electric them on the street. -- away from them on the street.

That's my street. That's your street. The city has paid for it. The citizens have paid for that. This is just a simple sense to be added that says in the city has to come along and close the street for any reason, it's got to be an honest to God emergency. You just don't give away public property for developers for their private use. Has been going on two years.

Literally I can't believe the city is doing this. I hope the city looks into why the developer has been able to use this one city block for their construction material and do something about it and prevent it from happening in the future. This is not the kind of thing that you do to your merchants. This should be good development that comes. In the artisan is a good example of that.

They want to watch out for the businesses. They want to watch out for the merchants -- watch out for the merchants. They want to be a good citizen. They don't want to have a negative impact on our businesses. They want our businesses to be there so that when they are open and they have residents and business there, that they can enjoy us. To we are a mutually beneficial situation.

But if you are closing off streets. That by the way, it's probably been five years that I come up

here and say parking. I feel like walking up here and say for three minutes parking. That one minute of silence was probably the same thing. So I just implore to you to add this simple language to the agreement. If they need to close the street, it's a real emergency. Thank you very much. John, I beat you. I got 12 seconds.

Mayor Ortega: Thank you. We have one last speaker. David Michael Miller.

David Michael Miller: Mayor, council, my name is David Michael Miller. I own and operate an interior design studio on first avenue. The artisan project will be immediately at my east property boundary and will be directly behind me across the alley. I have the distinct misfortune of welcome in this position. I'm going to put this on the screen if I can. So this building right here, this white streak, that's my building.

[Time: 02:00:01]

This was designed by Wendel Burnett. It was built and completed in the year 2000. At the time I built it to the maximum allowed height of 30 feet. I enjoy a second floor office that looks out over the roofs of the -- the stores across street on Indian School. With the artisan in place being 60 feet out of my back window, my private office window, I will be looking directly into somebody's living room.

My building is 30 feet and the artisan is 60 feet. I don't think this bulk and mass and height belongs on first avenue. Also, looking right next door to my building you can see where I have my customer parking. It's a gray splotch there to the right of the white roof. So for the artisan, I will be right next door to all the ingress and the egress of parking into the artisan according to the traffic study from the city.

They're going to be 650 ins and outs into the parking a day. So my luxury home clients that I'm bringing to my office are going to be sitting in line waiting for people to go in and out of the artisan. 650 moving cars a day right next door to me. That's bothersome.

So the effect of the project, to me, is going to leave me in a canyon of building mass. And I think it's very unfortunate for the city, for first avenue in general to have to suffer this. I understand the building is promoted as being fantastic and the belt buckle of the arts community, but I think this amount of mass and bulk does not belong on this street.

In addition, when I was first presented this project by the developer's representatives, I was told that everyone up and down first avenue, all of my neighbors supported it unanimously. Which I found hard to believe. They said we came you to last because we knew you would be the toughest sell.

So at the time the project was presented, I thought this was a moving locomotive that I have no power in altering the speed of, but following that presentation, I went and I talked to all my neighbors and none of my neighbors were for it. So there is something wrong with the

community outreach problem that brings back information to council that everybody in the neighborhood is all gung ho for this to land on first avenue, when that is clearly not the case. Thank you.

Mayor Ortega: Thank you. That concludes public comment, and I will ask the applicant to come up if there's anything to add or respond to.

[Time: 02:03:21]

John Berry: Mayor, members the council. I want to thank the merchants who worked with us to try to address these issues. I think we need to step back for a second. A lot of focus was on the access for the garage this property is a vacant piece of property, that has certain property rights associated with it and certain zoning category associates with it, which is the c2 zoning category which means someone today, going straight to DRB can build some of those uses in c-2, which would include some very successful restaurants.

Which include a 48-foot tall office building, which would have underground parking by right. So the existing zoning allows substantial uses that would access directly first avenue. What the traffic analysis does show is that the c-2 would generate less traffic than us.

So if the number 650 a day for residential use sounds high, I want you to increase that by 50%, which is the types of traffic counts you would have from successful restaurants, offices and other c-2 uses.

Now, the property today, again, by right, here is first avenue. It has two existing curb cuts on to first avenue and they have the right to use those today. I will tell you that our client didn't like the idea of access on to first avenue. We didn't like this.

We submitted two plans, including one time with the concurrence with Mr. Miller with the access continuing to be on the alley and it wasn't until the city staff and the city transportation staff told us in no uncertain terms that this would be a traffic nightmare and they had a list of issues why we shouldn't have access off the alley way. We didn't want to believe them.

At our second meeting with transportation staff, we brought our traffic engineer. For those of you that think traffic engineers are skills for developers and will give you any answer you want to get. Wrong. Their licenses are at stake. Engineers and architects are different.

When we joined that meeting with transportation staff, she walked out and said they are absolutely right. I will not seal a plan that has access off of the alleyway. They are right in spite of the efforts of the community and ourselves to try to convince staff to the opposite. So we conceded that that was the right thing to do to take access off of the first avenue.

I will also tell you that there's another reason you probably don't want access off the alleyway for public parking. If we continue to have public parking there, I want you to look at and get

familiar with another situation where you have public parking off an alleyway. This is main street. This is Marshall, this is the Museum of the West. This is the access off of an alley way into the underground parking for Museum of the West. I can't tell you the number of complaints I get. I didn't even know this was public parking there.

We should put some type of giant blimp with an arrow that says public parking here, because you don't know it's there. If we invest this amount of money in underground parking, let's make sure that it's accessible and visible for the people that will use it. I think those are the global issues I heard about traffic and access. As the construction mitigation. We have done everything possible on the private sector side to discuss construction mitigation. We are very proud of it. Happy to answer any questions that you may have.

[Time: 02:07:44]

Mayor Ortega: I see Councilwoman Whitehead.

Councilmember Whitehead: Thank you, all the parties involved and the public speakers. It is always hard when a privately honed open space is developed and that's what is going on here. I just want to thank the merchants too who have been tirelessly involved in this process for a year and, of course, the development team.

So I think this project has a lot of my favorite new normals. We have the performance contract. So we are not just handing is off zoning changes. With err going to have the project built in three years that's very good. It's a project that will get build if approved. More robust land scaping, more trees.

Public open space and pedestrian activity. And those are -- and higher design standards. So thank you, Jeff. So that is the new normal, which I really support but this project offered many firsts which I'm really excited about and a lot of us have been involved in this so the public/private public parking conundrum. We have seen it fail on a number of parking garages. So I brought that to the attention and others did to this development team. Two different elevators, and two different stairwells. That is an investment in our community. And that will ensure that public parking spaces paid for with tax dollars actually are open for the public.

So that is a huge new first. The collaboration -- oh, and I should thank the city manager. Good negotiating. Sorry the prices went up, guys. So collaboration with the arts district. We are an arts town. I'm not sure where this came from, I guess after a year from working with art galleries and other businesses, the window to main street.

So again, this is privately owned property that will feature local art and bring people into our arts district. I think this is exactly the type of project we like. This is barely a mid-rise project. We are looking at smaller projects that are unique and upscale and bring something different to our downtown. So this is definitely a fit there.

And finally the construction mitigation plan, another first. And I should point out that the parking, again, the parking code has been changed and increased because of input from our businesses. So this not only meets the parking code but exceeds it but now we have a construction mitigation plan, which honestly is good for the developers and the businesses.

We will have residents that are 24/7 and new businesses and new visitors but three years of construction, that's a long time and we have seen this in other -- or I have certainly seen this in other downtowns where it's really a mess. Really, we have the space and we have the ability to have construction parking somewhere other than our public streets and this development team has been incredibly generous in working with us.

A couple firsts we have an agreement, a private agreement where the construction vehicles will not be on those public street parking spots. That's pretty cool and we have a developer that has actually gone under contract with a private parking lot in case there is overflow. That's a first and we do have this city agreement that will prevent closure of public streets and I do want to talk about the request of one of the speakers. Anyways, these are all firsts. I'm really excited about it.

I support the project I do want to ask staff about adding language. I know the street that was in the picture is just completely closed off. I guess it seems to me that the verbiage provided to us by French Thompson is fine, but I would want to add you know, just basically -- and I think this is what the city has in mind but it's okay to put it in writing is just that these parking spaces and the street itself will not be closed off unless there's an emergency or a hazardous condition.

So maybe that's something that staff wants to address, but other than that, I'm again, I'm very grateful to the businesses that were involved. I do think some changes were made by even those from the input from businesses that still don't support the project, but I think it's a great project overall. Thank you.

[Time: 02:13:45]

Mayor Ortega: The city attorney probably has some comments in response to Councilwoman Whitehead, and then city attorney and then Councilwoman Littlefield.

City Attorney Scott: Thank you, Mayor and Councilwoman Whitehead. The construction mitigation do provide that the street, the public street and the public parking will remain open. I think what the complaint from the citizens that you heard from tonight was about, was there is a provision in the construction mitigation plan and in the development agreement that does allow city staff, particularly the city manager some flexibility to make some changes to the construction mitigation plan if need be. But it's not full or complete discretion.

That discretion is limited to changes that are reasonably necessary and let me read the exact provision, the city manager or designee shall have the authority to make adjustments to the construction mitigation plan as may be reasonably necessary to accommodate any health,

safety, or public interest concern that may arise during construction and, again, I believe the citizens you heard from really would prefer it be restricted further to an emergency and I heard a falling crane mentioned as an example.

I think it's important for the council and the public and the citizens would be concerned to understand the city has a non-delegable duty to keep the right-of-way relatively safe. We have the responsibility to do that and that's why the city has been reluctant to put in the construction mitigation plan that only emergencies, current emergency, and not a foreseeable problem or risk or issue can be addressed.

I do think that council should consider the implications to doing that and the disputes that can arise about whether or not a true emergency is present if the construction mitigation plan were deviated from. So I do think some of it has been addressed in the private agreement but I wanted the council to understand why the wording and the construction mitigation plan is the way it is, and more importantly to understand what wording is because it is there. It's just slightly more broad than what the citizens were suggesting.

[Time: 02:16:51]

Councilwoman Whitehead: Thank you. I have another question about that. So it does seem like just -- there's different words with similar meanings. What is defined as public interest?

City Attorney Scott: I think that is left to the reasonable discretion of the city manager. But my thought would be it's not just for the developer's convenience, and I will let the city manager or staff that worked on this mitigation plan comment. If they would like.

It's not just for the developer's convenience. If you are seeing a big traffic jam, maybe we need to do something about that. That's in the public interest. So you are taking the good of more citizens over the wishes of a few, and you are weighing that balancing as it moved forward.

You can imagine if there's a big traffic jam, eventually that's going to cause a problem and that could potentially cause a health safety problem. But when in time, does that arise? I think that you have to leave it to the technical staff would manage the right-of-way to figure that out, because as we all know, construction is a dynamic situation and it's hard to plan for every contingency.

And at the end of the day, the city is responsible for its right-of-way, and responsibility to public for its right-of-way. The public using the right-of-way, not just the developer, would also be using the right-of-way, not just the business owners and we always try to be very sensitive to them when there's construction, but to everybody who is using that right-of-way.

And I can't tell you how many complaints and claims we get in every week, every month, when there's an accident on our right-of-way, and it seems pretty clear to at least the legal department that those are accidents caused by private individuals, but the city is always

blamed. So we have to really be very careful about how we're managing our right-of-way.

Councilmember Whitehead: I will listen to what my colleagues say. I agree. In fact, the example you gave seemed to me the argument that the street would be open because you are trying not to allow traffic jams. Okay. Thank you.

Mayor Ortega: Councilwoman Littlefield and then Vice Mayor Caputi.

Councilmember Littlefield: Thank you, mayor. Thank you, mayor. And I hate to tell you, ma'am, they are not going to stop complaining no matter what we do. That's not an issue. I like this project. The project has a lot of positive features on it.

However, I want to address the issue of the ensuring the construction project, which will take at least three years and does not negatively impact the surrounding businesses. It is my understanding the developers agreed to an offside parking agreement that requires him to park the construction vehicles off site so that the streets and the roads can remain open for the businesses in the area.

I believe that's a first in Scottsdale and I certainly hope it's not a last. So thank you very much for that. However, the second mitigation issue, and I believe this is also what councilwoman Whitehead was concerned about is not completely solved with this plan. The city too has to commit to keeping the on-site parking spaces open during the anticipated three-year construction period unless some unforeseen emergency occurs.

[Time: 02:20:56]

Many of the merchants do not believe their businesses can survive during three years of construction that this project will require without an on-street parking access to their businesses. And I agree. And it is not the business of this council or of the city to close down our very well-known and very profitable businesses.

These can be solved easily this problem, I believe, by adding a simple sentence to paragraphs 6.10 page 144 of the council report to state and this is a quote, the city shall not close or block off the on-street parking spaces on first avenue, Marshall south of first avenue and main street during the construction except in cases of emergency per the definition of emergency in the city's ordinance code 47-2.

This section reads, definition, emergency, means a sudden, unexpected event, that may create an imminent risk of injury or death to any person or eminent risk to public health, to safety, requiring immediate response. This is a rational and reasonable definition that everybody can understand. And it should also include or it should consider including that any hazard to public health or safety should be considered a part of the risk of public health and safety, as defined in this code in ordinance Section 47-2.

Many of the merchants still fear that their businesses will close. They and I do not believe that they could survive the three years of construction that this project will take without an on-street parking access to their business. And I have to agree with them. It's unreasonable to expect otherwise.

Therefore, I would like to move that we amend this contract to include the above definition as state as part of the city's traffic mitigation plan for this contract this motion will bring this contract in line with the city's own definition of emergencies and it would greatly relieve the minds of most of our business owners that work and own businesses in this downtown area. Thank you.

Mayor Ortega: Okay. I heard a request for a motion. And I didn't hear a second. We have continued discussion at this point. Vice Mayor -- did someone second that? I'm sorry.

Councilmember Janik: This is Councilwoman Janik. I will second that.

Mayor Ortega: Okay. Thank you. I did hear a second. Any discussion on the motion? When I looked at that text, by the way, it said the city shall not do it, close it off. Shouldn't it say the city, developer or contractor shall not? Okay. I'm just listening to you, but it says the city won't close it off. We're not building the project, right? I don't know how that wording could be more explanatory. Or it says the city is not --

Councilmember Littlefield: Well, I believe that the contract that the developer has created for us with his project, covers their part of keeping the parking lots open and the parking spaces open, that they have agreed to do that, but the other half of the equation is the city and the city keeping the parking lots and the parking facilities open.

And so that is what I'm trying to address is our obligation as part of a contract if it's hazardous. If there's a danger to people, obviously, then whoever is designated to make those decisions be it the city manager, or whoever, they would come in and say, hey, we've got to move this stuff out. But I believe that the contractor has already agreed to this.

[Time: 02:25:20]

Mayor Ortega: I just want a clarification, as far as -- because it makes it sound like the city is taking the action. The city attorney, do you have just some clarification for -- so far?

City Attorney Scott: Just trying to help with the motion so that everybody understands what it is. In my interpretation and meet correct me, Councilwoman Littlefield, if I'm wrong, you are trying to change the wording in 6.10 with your amendment, 6.10 of the development agreement, change it from this wording, the city manager designee shall have the property to make adjustments to the construction mitigation plan as may be reasonably necessary to accommodate any health, safety or public interest concerns that may arise during construction.

You want to change that sentence to the city manager or designee shall have authority to make adjustment to the construction mitigation plan as may be reasonably necessary to accommodate my emergency as defined by Section and I forgot the section number that you listed.

Councilmember Littlefield: The ordinance -- to follow the city's ordinance. What my statement was, was the city shall not close or block off the on street parking spaces on first avenue, Marshall, south of first avenue and main street, during the construction except in cases of emergency as per the definition of emergency in the city's ordinance code 47.2, and that definition reads in the city's code of ordinances, 47-2, definition, emergency means a sudden unexpected event, that may create an imminent risk or injury of death to any person or imminent risk to the public health or safety requiring immediate response.

That is a rational and reasonable definition, I believe, and it would include any hazard to the public health and safety be considered part of the risk to the public health and safety as defined in our code and ordinance of 47-2. It just brings the two together into the same wording and definitions as we currently have in the ordinance.

City Attorney Scott: Yes, thank you. I think the problem is and what the mayor was trying to sort out is the construction mitigation plan has in numerous places in it that the cellar will not -- and the city will not obstruct the parking or the street.

And so I think to make your motion really, it is to change the wording of 6.10, the sentence about take -- take out the wording, where it states any health, safety or public interest concerns and add any emergency as defined by Scottsdale city ordinance that may arise during construction.

Councilmember Littlefield: That's fine.

City Attorney Scott: I would offer that as a clarification of your motion and I hope I got that correct. I think I do.

Councilmember Littlefield: Yes, I'm trying to bring the two into total alignment and yes, I would be happy with that change, adjustment, whatever. Yes.

[Time: 02:28:42]

Mayor Ortega: Thank you. I also just wanted to tie it together. If there is any other free legal advice -- oh, wait. Did you have any comment? Okay. So you can sit down, I think, Mr. Berry if you have any comment.

John Berry: I'm sorry. I thought you had some questions for me.

Mayor Ortega: Well, what we will do is we will vote on the motion, and that clarified it for me as

well. So I appreciate that. So at this point, we have a request requested amendment with the second and it's clarified for the record that all the other provisions have not changed. It was just this part. Any other discussion?

Councilmember Janik: Yes.

Mayor Ortega: Oh, excuse me, Vice Mayor Caputi, Councilmember Durham, Councilwoman Whitehead.

Councilmember Janik: And Councilwoman Janik.

Vice Mayor Caputi: Okay. So we're not voting on the motion on the floor, we will continue conversation? Great. I actually had the pleasure to chair the development review board when this project was brought through and so I feel very strongly about this project and like the rest of us, I have spent a lot of time on it and so I have several comments that I want to make.

[Time: 02:30:00]

This is a great project, we have all seen why it replaces a vacant dirt lot with mixed use options downtown and fulfilled the goals of our general plan and our Old Town character area plan. It's in a growth area and they are not asking for additional height or density. It provides infrastructure improvements cultural contributions, pocket parks, customers for our downtown merchants and more than abundant parking.

We always try to balance the benefits of new projects with our existing businesses. We fought hard to get 55 extra public spaces built with \$2.2 million of our taxpayer money, above our recently increased parking requirements to make sure that our local businesses would we greatly value have more than enough parking. Without the artisan, we get none of these things. This is a project that I feel is worthy of our city. I don't hear anyone saying that this isn't a great project. It seems to be delayed because of concerns about construction impacts on the area, which to me have been addressed.

We all pay for public parking and the public has a legal right to use it. Our creative solution has been devised for this project between the developer and private citizens, but this is not meant for all situations. The city cannot overreach into a private construction project, as our city attorney pointed out, when things go wrong, this could mean serious legal exposure for our city.

And local businesses asking for personal use of public parking is a slippery slope in my opinion, that could be considered a gifting of public funds. The city also cannot be stripped the authority and regulatory authorities to make adjustments to the plan, again as our city attorney has pointed out.

We have to balance the needs of all of our 250,000 residents and we have to be able to change the plan as needed for health, safety, and other public interest concerns. We have a duty to

keep our streets safe, and we can't sell bait this to a third party. People that aren't parties to the city contract shouldn't be dictating the terms of our city contracts. That is a dangerous practice.

Construction in our city is inevitable, and it will cause temporary disruptions. A construction mitigation plan is a fantastic idea and it is nothing new in our city. We have extensive rules and policies that manage all of our construction projects. These are in both our city code and our design standards and policy manual. The DS and PM which everyone might not be familiar with. I have asked staff for a copy.

You can see it's large and thick and heavy, extensively covers construction mitigation. It's a regularly updated and citizen reviewed plan. We're not just suddenly inventing the idea of construction mitigation. Good constructions make our project better. This is a dirt lot in a vibrant part of our city.

Something is going to get built here and we are risk losing all of our great things that we heard about tonight in order to score political points. We want construction mitigation. We don't want construction annihilation. New investment, reorganizes this area, which benefits all our businesses. We want more people walking our streets. That helps our existing businesses.

Most importantly, state law requires and we see this in every packet we get, that we consider the aspects of a development plan that would affect the cost of construction of housing. Creating extra layers of unnecessary and redundant bureaucracy and red tape, actually prolongs the pain and expense of a project. Forcing a business to implement an additional construction plan preventing them from using available public parking and managing their procurement and labor processes drives up the costs and opens up our city to lawsuits.

[Time: 02:34:33]

There should always be a balance between the obligations of the city to protect its residents and businesses and the rights of private entities to engage and compete in free market activities. This is capitalism. Government is here to ensure and protect our freedoms and as was pointed out tonight, not to pick winners and losers. This is a great project. I think the lasting benefits far outweigh the short-term inconveniences and I am in full support. Thank you.

Mayor Ortega: Thank you, councilwoman Durham and Councilwoman Whitehead and Councilwoman Janik. Councilmember Durham.

Councilmember Durham: Thank you, Mayor. I don't understand how this emergency provision is going to work, because looking at some of the pictures here, there are a number of parking spaces on the north side of first avenue immediately adjacent to the project. And maybe I'm wrong, but I can't imagine how cars could be parked in these spots on the north side of the first avenue that are immediately adjacent to where the project and the construction is going to be.

And in some of the pictures we have seen, there are cranes beside the project that are sort of

parked on the street, parked in what appears to be parking spaces on the street, and I'm sure that -- I would imagine that's necessary in this project, again maybe I'm wrong, but I don't know that that's an emergency.

If you have got to park a crane in what would be one of these parking spaces on the north side of the street, I can't see how that would be an emergency. So unless I'm wrong in some of these issues, I think would prefer to leave this to the discretion of the city as was discussed, the city is responsible for keeping these right-of-ways open to the maximum extent possible and I just think this emergency provision, unless I'm misunderstanding something here, I just think it's unworkable.

And could you address that, Mr. Berry on what the intension is of the parking along the north side of first avenue there? Adjacent to the project?

[Time: 02:37:10]

John Berry: Mayor, Councilmember Durham, excuse me, if I could just highlight that construction mitigation plan is three pages of very small print and two graphics. But let's just use one of these graphics which talks about phase two and let me see if I can zoom in a little bit here. So what you will note and it's hard to read, I apologize is that the crane unlike that other project on main street that Mr. Pejman showed the picture of.

Our crane is on the interior of the site. The crane will be on the interior of the site. Construction mitigation plan as stipulated and in your packet requires that we cannot close those parking spaces on first avenue. On the north side or the south side of the first avenue.

In fact, what we must do is ensure that those parking spaces are not closed. We can't put -- lay down materials or storage materials there, and given the location of the crane this temporary area. My client is very confident that we will not need to close any of those parking spaces anywhere on first avenue, much less those on the north side.

So every construction site is different. So the one you saw on main street with that photo, that's a very different parking site contextually than this. We have the advantage of being able to locate the crane on the interior of the site. And the crane will be located there, and they have the reach to be able to take the materials and deliver it on site without having to take up these parking spaces.

So that has nothing to do with whether it's an emergency or not, but it's just a clarification. The construction mitigation plan ensures that they stay open, whether it's an emergency or not, that's your guys' conversation currently.

Councilmember Durham: Thank you for clarifying. I know that's what the construction mitigation plan says, I just -- I was curious about how that was possible to have parked cars in

such close proximity to a construction site. And if that's possible and feasible and that's what the plan says, then I don't -- I frankly don't see the need for the emergency provision because it's already covered in the construction mitigation plan. Thank you.

Mayor Ortega: Okay. We will go to Councilwoman Janik and then Councilwoman Whitehead.

Councilmember Janik: What I wanted to speak on was the fact that I think the construction mitigation plan is necessary and I believe it will facilitate the business owners would have a whole lot to lose if the streets are closed down as we have seen with other businesses, and I applaud the people who worked towards that construction mitigation plan, both Mr. Berry as well as the business men in the area.

[Time: 02:40:28]

Now, I just want to make sure when Councilwoman Littlefield spoke, she further clarified that any hazardous situation could also be addressed and I'm still a bit confused on where that is and what we are speaking about now and I would hope that Sherry, perhaps could clarify that a little bit more for me.

Is there another part of this plan that talks about hazardous situations because for me, I don't want it to become an emergency. I want to deal with it as a hazardous situation where then there is the power to make adjustments to traffic and parking. Thank you.

City Attorney Scott: Mayor, if I may answer her question, Sherry Scott. The construction mitigation plan is an exhibit to the development agreement and it provides that the streets and the parking should remain open. It says changes to this plan will only be made in accordance with Section 6.10 of the development agreement.

So when you look at 6.10, that is where -- that is the language we're talking about. Do you want to keep it as it currently is, which gives the city the ability to make changes to the construction mitigation plan, only if there's a health, safety or other public interest concern that arises during construction or do you want to change it to allow that only in a true emergency?

The amendment that you have on the floor is defining an emergency pursuant to Chapter 47 which is your street, sidewalks and public works chapter. And as council woman Littlefield previous read, it defines a Sunday, unexpected event that may create an imminent risk of death to any person or an imminent risk of public health or safety requiring an immediate response.

So it does allow for some interpretation, but it has to be something expected that's imminent. It wouldn't allow for a closure, for instance, just for a traffic backup in motorists are honking and trying to figure out how to go and I don't think that's an imminent risk to public health or safety requiring an emergency response.

So where that tipping point is, there will be a spaller amount of discretion than what's currently

in the documents. And that's about as much specificity as I can give you on how we would implement that type of wording if the development agreement were to change.

Councilmember Janik: Okay. Thank you.

Mayor Ortega: We do have a motion on the floor that we are going to vote on. So Councilwoman Whitehead and then Littlefield.

Councilmember Whitehead: Okay. Thank you, mayor. I'm pleased that there seems to be a lot of support for this great project on the dais, we never know going in. I don't think there's any threat to this project getting approval and that's really exciting for our downtown.

So tweaking words is what we do to get things just right, and it's -- I guess the phrase that comes to mind is an ounce of prevention is worth a pound of cure. I'm not comfortable with just the emergency.

[Time: 02:44:43]

It seems to me and I'm not looking at the legal definitions that health and safety covers a similarly -- similarly covers emergency and hazardous, which is what I had originally requested. And it seems to me that the phrase of concern is public interest. So I wonder -- we want to make sure that we're not dealing with an emergency, but we're preventing an emergency and the example that our city attorney keeps providing is an example of a safety issue.

So if all of a sudden traffic is backing up, it seems we will open a road, but however that might close a road, that would be -- that would fall under safety. So I would make an alternate motion. Is health or safety emergency and hazardous?

City Attorney Scott: Mayor, if I may answer her question.

Mayor Ortega: Yes.

City Attorney Scott: No, it's not. That's why we put in the documents. That includes an emergency. Health safety or other public interests includes an emergency. An emergency doesn't include health sift, or other public interest.

Councilmember Whitehead: Got it. I'm not comfortable with the word "emergency." But the word I proposed in my initial remarks was hazardous because a hazardous condition might be there's a gas line so you want to cheer off parking -- cars in the parking lot adjacent to where the gas line is being worked on. That's a hazardous condition. To me that also sounds like health and safety.

So I guess I have stated that I don't support the emergency only change and I -- and the words I was considering was I would substitute emergency and hazardous but I feel comfortable that

health and safety cover it if we remove public interest.

Mayor Ortega: Well, in my ruling here, we have an amendment to what was presented to the public. And we can vote that up or down. And then whether that stays the same or the next motion carries. Now, you are asking to change a word that I tried to clarify what path we are on here. I don't have a motion. I do have one motion already as to how it's -- if you are not comfortable with it, could you vote no on that.

Councilmember Whitehead: I would like to make perhaps a friendly amendment for Councilwoman Littlefield to consider. And that would be to retain the health and safety, but remove the public interest knowing that health and safety cover both emergency and hazardous.

[Time: 02:48:05]

Councilmember Littlefield: Okay. My whole point on this was to align the city's codes with each other. I think that would be fine. The motion does not affect the terms of the contract itself in any way. This is strictly within the city and our own ordinance and our own terms for how we behave, not how the developer behaves. And it's an attempt to clearly define our own mitigation policy and put it into practice. And to put it into practice with our city's actions.

So to the businesses that are going to be affected by this project for three years, they want assurance that they are going to be able to get to their businesses, that their clients will be able to get to their businesses and without impediment. So -- so the only reason they wouldn't be if there's an issue with public safety. If there's a line blowing up, a gas line or something, that's hazardous to me, but it's also health and safety. So, you know, either way, you want to put it, that's fine.

I believe it will help to alleviate the fears in many businesses right now that we will not be capricious, we will not do this just on a whim because we feel like it's a good day to close the streets, but this is a city action and this is assurance to our businesses that are in the -- in that area. Holding businesses and wanting their customers to come to their businesses that we will not be capricious and that we will only do these kinds of actions if there's a true danger to them, and to their businesses. That's what I'm trying to get to.

Mayor Ortega: Well, do you accept that word change? And then the second would have to and I hear some misgivings. Again, do you want to accept that, and then it will have to be reread. The definition of hazard also should be -- so you do accept it. Does the second accept it, Betty? I'm sorry, Councilwoman Janik?

Councilmember Janik: Yes.

Mayor Ortega: We are very clear on the action, city attorney?

City Attorney Scott: Yes, the way I understand the motion to amend, which was the subject of a friendly amendment, the relevant wording in Section 6.10 of the development agreement will now read, the city manager or designee shall have the property to make adjustments to the CMP, the construction mitigation plan, as may be reasonably necessary to accommodate any health, safety concerns that may arise during construction, period. And the rest of that paragraph 6.10 of the development agreement. Did I get that correct?

Councilmember Littlefield: Yes.

Mayor Ortega: Good. So we have the revised amendment to what was published as stated, there are three council people wanting to speak, Councilwoman Milhaven. So I have Milhaven next.

Councilmember Milhaven: We heard from the city attorney that she has significant concerns about modifying the language for this section. I don't know that it's our responsibility to wordsmith stuff. I think we would be well-served to listen to the advice of the city attorney.

I think the intention of all the parties here is to not close the road and to not close the parking. I mean, I think everybody has made that perfectly clear. I would think twice or ten times before I went to close a parking space or to close this street given the desires of city council, as well as the desires of the folks here in this room. So I don't think we're at risk of any capricious closings.

[Time: 02:52:36]

But I do think we are at risk if we are according to the city attorney, narrowing what the city manager could do because there may be unintended consequences. There may be something that may be in the public's best interest that would avoid a hazard or emergency and I don't think narrowing that will be in the best interest. I will make an alternate motion to adopt ordinance 4535 and adopt resolution 12396, and 12397 as presented.

Vice Mayor Caputi: Second.

Mayor Ortega: Well, it's my opinion that there's -- that's a base motion. I think there's an amendment we can vote on first, because it was proposed as an amendment to what was published.

The alternate motion, it would have to be significantly different than what is already posted. It's not an alternate, it's a base motion. You could proceed after this happens. I think that, again, an alternate would be significantly similar -- well, it's a base motion to approve the case and that is not an alternate motion. We have a motion to amend something. So that's my opinion, that we have an amendment.

She proposed it as an amendment to it and there has not been a basic motion made yet. So we were clarifying a certain provision in the motion. And I see Councilmember Durham. I'm not

saying we won't vote on the amendment, but in order, that needs to be in order as it came forward. Councilmember Durham.

Councilmember Durham: Thank you, mayor. I'm opposed to the amendment. This project will last for three years. There are any number of unforeseeable things that might happen that would require some closing temporary, whatever, that might be in the public interest.

We can't -- sitting here today, we can't imagine what those might be over the next three years as the city attorney has stated, we do have an obligation to keep the roads open, and so I would rest on that. On our obligation to keep the roads open and on the discretion of the city government to determine when it might be necessary because sitting right here, we can't predict what circumstances might arise so I would want to leave that to the discretion of city management on whether or not a temporary closing might be necessary.

Mayor Ortega: So I call the question. That means we will be voting on the amendment first.

Councilmember Milhaven: Excuse me, I would like to make it a point of order.

Mayor Ortega: It's easier to do it this way, Linda. Okay. You want to question my -- I believe we should vote on the amendment, and that's -- and therefore, a vote yes would allow the chair to vote in order of the amendment.

And a vote no would say the amendment would not be valid, I guess until after the main motion. Because we're going to be voting on the main amendment, one way or another, it's still an amendment. So yes, would allow the order of things to be voted on.

[Time: 02:56:30]

Councilmember Milhaven: If I could clarify. So we have an amended motion on the floor, and we have an alternate motion on the floor and rules of procedure call to vote on the second motion before we vote on the first motion.

Mayor Ortega: Okay. Then it will go down, because it's not --

Councilmember Milhaven: That's fine, I'm saying because the rules --

Mayor Ortega: The vote on a -- we had an hour discussion on an amendment, and it's -- it's still a valid amendment now. The chair has been questioned. I believe that the amendment should be voted on. Up or down, however it goes and if you agree, then vote yes. Register your vote.

Vice Mayor Caputi: Can you explain that one more time?

Mayor Ortega: She's questioning --

Councilmember Milhaven: He's asking the council to override the rules of procedures.

Mayor Ortega: And I'm saying that we have to vote on an amendment. It was not a base amendment. And it's -- the question is substitute or alternate motion. Go ahead, city attorney.

City Attorney Scott: Mayor, thank you. I think the confusion here is the motion started out as a motion to amend, and then it became a friendly amendment, but it's still a motion to amend that needs to be voted on.

And Councilwoman Milhaven is absolutely correct that it's last in, first out. But I do believe because there is a motion to amend -- so we know what the two motions on the floor are, that it would be appropriate for council to vote on the motion to amend and then it would be -- if that motion is amended, then it will go to Councilwoman Milhaven's motion, which is an alternative motion, and then if that fails, then you would vote on the motion to amend. I'm sorry, the amended motion.

Mayor Ortega: Thank you. So to be clear, on voting on the amendment which had a friendly change. Register your vote.

[Time: 02:58:54]

Councilmember Milhaven: Wait a minute. What are we voting on?

Councilmember Janik: Yes.

Mayor Ortega: Betty voted yes. And I vote -- So the amendment did not pass and we are now having an amendment -- excuse me, a motion to approve the case as presented and stated with flexibility for the city manager to handle the unforeseeable future.

However, I -- I will speak to the motion and including several questions that I have. First of all, the motion on the table is really a base motion to approve the project. There's many things to like about this project and there's several things that I object to. First of all, the open space and that requirement is a positive. But it also seems light the right of the passage.

When there's open spaces on the corners, it's part of the architectural guidelines and it's useful and it's not a give me and certainly if the project, it wouldn't be approved from my end. The second fact is that we are in the process of retooling the Old Town character area plan.

I think the guidelines that are set also with architectural guidelines have to be consistent with the project, and so certain things can be learned, lessoned learned project by project. The three questions I have -- first of all, relate to the percent of mixed use. And less than 1% of sow-called mix use didn't work. Extra support a project which is not truly mixed use.

And I'm saying that because I believe the client or the applicants said that there was maybe 13

or 14 extra spaces in this project, which sounds good. I think that should be commercial space. I think there's 10 or 15 spaces that are surplus spaces, but I don't believe it's ideal to have people's patio right there along Indian School and that's an opportunity lost in terms of having a true mixed use.

So I think that the extra space is so-called overparked should be in the commercial sector. I know there's a small use for an office. The other thing that I had Mr. Berry up and the architect too. If you look at the west elevation of both buildings, you will see that they have a zero lot line. Okay?

Zero lot line, abutting many Miller's property and abutting the coach house property and when you go and build a building that's 40 feet down into a hole, you cannot build on a zero lot line. Now there is a view of that west view -- west end of the building, maybe we can find it and put it up, it shows balconies and class on the zero lot line. That's not code. It means that you have to have respect.

That's some form of mitigation, I guess to the adjoining property. And essentially during construction, you couldn't fence that area off without invading or going on to the adjoining property, if you want to build to zero lot line. Part of what we are seeing tonight is an up zoning with a lot of good considerations, but it has two weak points, the west side of both of those buildings, and one of them shows glass and I know it may be conceptual but nevertheless, it's zero lot line.

Essentially if someone put their car in drive instead of reverse parking at the coach house, they would end up in the hole. Doesn't work. That building needs to be at least 5 or 10 feet back from the property line, just to build it, just to be able to build and go town and excavate, and so that is a deficiency in that building, that is in type two and then if you look at the building also, which is also where the parking garage is, on first, it also is at zero lot line with windows showing on the west which you can't do and again, you will be building on somebody -- it just physically can't be done.

[Time: 03:04:04]

There has to be there's a respectable space there or they will put the building in jeopardy next door. That's a hazard. That's a known hazard that's going to happen. So in that respect, I think I cannot approve the site plan, that's presented. It's a beautiful building, but it doesn't have -- and it could be zoned all the way to the lot. Zero property line, but it's not going to get -- I can't approve it that way. It's -- kind of like ethically something you don't do.

You have to have some space, and they even showed some balconies. The parking, it's down in the pavement, our council approved that. I suggested it. That allowed the two story -- I'm sorry, the two bedroom, to have one parking space of tandem parking. That was the saver. It made it better for you all to provide two story sorry two, bedroom units. I thought that was really good.

The suggestion that I had, again, is that it's not meeting the mixed use. If we kept doing, this we're going to eat up commercial space, especially on Indian School. It looks like you have parking on the back side of that building along Indian school that should be for commercial purposes before it gets to be less than 1% is commercial and they call that, you know, open -- sorry, mixed use. Therefore, when you start converting all of these C2 properties.

A minimum, I asked for 20%, the ground floor and I think the ground floor should be commercial and let the other happen above it. So it would set a bad precedent for me to approve something when I know that the intent of the architectural guidelines and true mixed use have to have some compatible commerce to it. You don't want people walking around there and seeing someone with a TV as you are out there walking and shopping or whatever. It's just not comfortable and it breaks the rules. I don't see any other comments on the motion. I'm not hearing is your client at all interested in because I think that's the greatest hazard to this project.

John Berry: Mayor Ortega, and members of the council. Have to pause for a second and note that there are numerous buildings throughout the city around the valley and the country, and I'm not that live -- that the adjacent property owner and the work site are safe.

We do have a letter from Paul Koehler, whose PK Structural Engineering, who has been around forever and has offices around country and great engineering detail and I will be happy to put the letter up if you like, that describes a couple of methods to be able to do that. Some of -- one of which was, in fact, used by the city out here at the construction of the bridge, over the reconstruction of the bridge out in front of city hall, connecting the civic center plaza and I appreciate your experience and your involvement in many of these complex projects around the valley and the country.

But the information that certainly our client has garnered from their structural engineers and folks that engage in this around the country is that it certainly is possible to do this. The other issue -- so the short answer is our client is confident that we can. If for some reason we can't do it, safely, with -- without hazard, we can't do it. The city won't let us do it. This is not the first time that they have dealt with an underground construction on a zero lot line. I honor and respect what you are saying. And if we can't do it, for goodness sake we won't.

[Time: 03:08:49]

Mayor Ortega: I see -- any other comment from Ms. Janik. There's no other questions for Mr. Berry. So we have a motion. Anyone else want to speak to the motion? I think many prepared statements were made. Otherwise, let's we have a motion and a second, and in particular for all the attendant development agreement and so forth for case 5a, please register your vote.

Councilmember Janik: This is Councilwoman Janik, I'm a yes.

Mayor Ortega: Great, 5-2. It passes. Congratulations. Good luck with your project.

**ITEM 6 – COMPENSATED CONSERVATION AGREEMENT**

[Time: 03:09:38]

Mayor Ortega: Next we will go to compensation agreement, presenter Brian Biesemeyer, water resources executive director. He will make his presentation.

Brian Biesemeyer: Thank you, mayor and council, Brian Biesemeyer, water resources director. I have a short presentation on a compensated conservation agreement. You just received an update on the Colorado River.

This plan was as a result of earlier information about the drought that occurred in the fall of the last year and it resulted this concerns for Lake Mead, not Lake Powell as Gretchen talked about earlier, about some concerns that the Department of Interior had with Lake Powell.

This plan was devised specifically around Lake Mead, and there's a provision in the drought contingency plan adopted in 2019 that would allow the Department of Interior to take action should the lake level look like it would be declining to below 1020 which is where electricity generation would come into concern.

So this plan is designed to mitigate those facts. So the three lower base states looked at what could be done to protect the lake from declining below 1020. So the thought was how can we -- the Department of Interior does a number of forecasts every year and we talk about the 24-month study in April and in August.

The plan was devised on how can we look at these forecasts over the time of the DCP, so going out to 2027, and how can we mitigate the lake going below 1020? And the question was posed what amount of water behind lake immediate would allow this so that it doesn't go below 1020. At the 90<sup>th</sup> percentile. So we have a 90%. So 90% of all the forecasts done would be above 1020.

What is the 90<sup>th</sup> percentile or 10% that is shown here. So it's really 90% of all the forecasts. So that came out at 500,000-acre feet saved behind Lake Mead. Then the other question is how do we do it? If we need to keep at 500,000-acre feet behind Lake Mead, in addition to the tier shortage, 500,000-acre feet, the lower basin states, California, Arizona, Nevada and now Nevada is not in this but Nevada is also paying money to help with this conservation because the plan behind the conservation is to have voluntary compensated savings.

So the people who voluntarily do it. And the compensation is \$261.60 per acre foot for any savings behind the dam. On the Arizona side, you can see how that allocation came up through requests for voluntary savings.

So Scottsdale would come under the C.A.P. subcontractors. Which you can see is the 50 for 60,000 savings. It's part of solution and part of the and part of the solution with the neighbors and others in Arizona. We have a long history of doing that. So with the participating

subcontractors, you can see our recommended contribution is 1889-acre feet.

Now this is the remaining portion of our non-Indian ag water. And this is only for 2022. Should we become under a higher tiered cut in 2023, there would have to be -- in 2023, there will be a brand new contract coming forward. This is only 2022. And so we're talking about 1889-acre feet that we would normally recharge. And in this case, we would keep the water behind Lake Mead.

The benefit to our ratepayers is it's compensated. And it's -- and so it would be funding coming back to us. And I would go back -- that funding would be approximately \$500,000 in savings back to the Scottsdale water and then we would diminish and how rates are going up would diminish that for 2022. Now another contract will come up in 2023. The state and the CAP will ask for voluntary contributions. Again, that will be on an annual process we will go through. We would be back with that recommendation for 2023. This is only for 2022.

But, again, as being part of the solution, and getting that compensation back for our ratepayers. Staff is recommending approval of resolution 12457, penning your question -- pending your questions.

[Time: 03:16:17]

Mayor Ortega: I see no hands. Oh, Councilmember Durham.

Councilmember Durham: Thank you, Mayor. Are we going to get the missing 1889 from someone else or another source or are we just going to -- I mean, you have shown that there is a bit of a surplus. We will just go without that 1889-acre feet?

Brian Biesemeyer: That would be 1889 that we would normal recharge in our own aquifer here and we will not recharge that this year.

Councilmember Durham: Okay. Thank you.

Mayor Ortega: Good. I see no other hands: With that, I move that we adopt resolution 12457, approving contract 2022-052-COS, the compensated compensation agreement between the state of Arizona, the United States and central Arizona project water conservation district and city of Scottsdale to conserve a portion of Scottsdale CAP water in Lake Mead calendar year 2022 in exchange for compensation.

Councilmember Whitehead: I will second that.

Mayor Ortega: We have a motion and a second. Any other discussion? Please indicate your vote.

Councilmember Janik: This Councilwoman Janik. I'm also a yes.

Mayor Ortega: Thank you. Unanimous.

**ITEM 7 – REAL ESTATE SALE AGREEMENT TO DISPOSE OF SURPLUS PROPERTY**

[Time: 03:17:43]

Mayor Ortega: Moving on to item number 7. Which has to do with the real estate sale agreement to dispose of surplus property and the presenter is Dan Worth, public works director.

Dan Worth: Good evening mayor and council, public works director. I know it's a long meeting and I'm the third presentation that you are getting tonight from an engineer, which makes it especially difficult, I'm sure. But I think I can be brief. I am here to talk about the possible sale of city property.

This is a parcel that we offered at auction in March. We received a single bid. Our task tonight is to decide whether we will accept or reject that single bid. This is the property. 27.5 acres located -- 37.5 acres located at fourth street north of bell road. You can see the properties that adjoin it.

DC Ranch to the north, Wingate Ranch to the east, a condo, multifamily complex and city owned property, that supports WestWorld to the south. And although it doesn't look like it, the parcel to the west is our brand new sports fields that we are just completing construction on. You can see the -- on the bullets the value of the property.

We acquired it in 2005 at auction from the Arizona State land department for \$24 million. We got an appraisal a little over a year ago, it appraised at that time at \$28.5 million. The total cost of ownership, what we paid for it and then what we are paying in interest associated with the bonds adds up to 42.7, we chose that for the opening bid.

We got a valid bid at the auction and then you can see the zoning in the bullet and I highlighted on the slide our parcel is zoned r1-7 as is the parcel to the north, the parcel to the east, the parcel to the west and then to the south it's multifamily and western theme park. The process, the invitation to bid contained no use restrictions, it is as is. And we advertised at an opening bid of \$42.7 million. Again, that relates to the number on the previous slide.

On March 169 we had a live auction. We had a single bidder, Mr. Michael Graham, American first home builders who I understand is here with us today. He bid the \$42.7 million amount. Tonight, with err here to either approve or reject the bid and if council approves the bid, then we are on track to close per the bid documents in early June.

And the last thing I wanted to point out is just give you some additional context. There are four large land sales that happened in the same central part of the city over the last two years moving from the west, the left side of the graphic, the first parcel open the south side of the freeway, west of Hayden Road is parcel of state land that sold at auction about three weeks ago. You can see the value it went for a little over \$600,000 an acre.

The parcel adjacent to it to the east is the axon purchase, from September of 2020, at a similar price per acre. The parcel -- the next one to the east, on the north side of bell road, east of the freeway, went for auction the week before our auction, at about \$980 per acre and then our parcel, the auction price on a per acre basis, \$1.14 million per acre and I would point out the three state land parcels are all either PCD or as opposed to R1-7 and the state parcels have freeway frontage.

I think that gives you a fairly good idea whether that is a good bid, a good amount for our parcel. And with that, my briefing is concluded. I'm happy to answer questions.

[Time: 03:22:27]

Mayor Ortega: Councilwoman Milhaven and Councilwoman Littlefield.

Councilmember Milhaven: We will talk about putting a citizen group to consider extending the sales tax, the preserve sales tax expires in '95 and we will contemplate bringing together a citizen group to discuss if we were to extend that tax what we might want to use that money for, and I think that's an exciting conversation to have. What is the next big idea? We're going to do in Scottsdale?

Is it another preserve and if we are going to launch into that conversation about what is the next big idea, selling property where that might get situated seemed to be a little hasty. We can always sell this property later if we don't have a use that comes out of that. But I imagine.

Yes, if we want a bigger theater located up north or the McDowell Sonoran Conservancy could use office space or classroom space or even with the new soccer fields we still get emails that we don't have enough sports fields for folks. I'm really reluctant to sell this property which we may in another year or two have a really good use for it. We can always sell it later.

I think some of my colleagues may assure that we are saving money. We are liquidating an asset. We won't be saving any money. We are liquidating an asset. And I'm excited about the conversation about what we would do when we expand the tax, you know, my time on council, we had a hard time meeting basic infrastructure needs and we got a transportation sales tax passed to take care of our roads and our basic infrastructure.

I think the timing is right for us to think about what the next really fun, great community amenities might be. I'm going to make a motion that we reject resolution, number 12460.

Mayor Ortega: Okay. There's silence. That motion dies for lack of a second. I will move to adopt, to accept the sale the property resolution 12460, authorizing the sale of city property in the amount of \$42,700,000 under purchase and sale agreement contract 2022-055-COS.

Councilmember Littlefield: Second.

Mayor Ortega: Let me mention a few things. Part of this evening has been mentioning the general plan and the general plan has land use element, and this property is part of that land use element. It's covering a lot of cultural aspects. It's covering the preserve where the city already owns over 53 square miles of open space. That and that are a beautiful thing.

Every single chapter in here has a purpose and I don't see having a large performance center with 2 or 3,000 and headlights exiting at night. I think the sale of the property is -- the property is exquisite. You found a good -- we found a worthy buyer.

It's away from the freeway which is important and I think that's why it is also to me represents a neighborhood -- represents a place where there will be dedicated open space and so forth, just to make it very desirable, where people can meet each other, and I hope they don't make it an STR neighborhood. I can tell you pretty directly.

[Time: 03:26:53]

And yet, at the same time, our council will be exploring other -- another issue whether we'll do it tonight, which we do have a split work study for that. I'm also very interested or I would be point out on the overhead that the city bought ten acres right next to WestWorld. 10 acres.

WestWorld is the main event center for Scottsdale and there's potential there for some things on site with all of that parking. And in spite of having 545 events at WestWorld, so having another space with lot of events, that's not the direction I want to go when we are investing here in the very vicinity. That's my opinion.

We have a motion and a second and I have a comment from Vice Mayor Caputi and Councilwoman Littlefield.

Vice Mayor Caputi: Just a couple of comments. I was pretty conflicted with this. I like the idea of trying to think a little bit bigger. As I mentioned earlier. It was a little shocking to me that the council wanted to sell to the first bidder and build housing. It's ironic to me. But we do need housing. I struggled with this. I like not just plunking down this.

We used 40 for municipal use and I suppose the fiscally responsible decision would be to put the additional 40 to good use. The market is at an all-time high and it's probably a decent time to sell and make the residents whole and I want to throw out the additional comment that it didn't really make sense, I guess to keep a valuable piece of pup lick property from generating economic value.

I think our job is to make sure that we always generate economic value for our citizens and I think we need to be super thoughtful and strategic with our taxpayer money and we should aim to value the residents. I will use the word ironic. When we look at the area that we have

downtown, the most valuable area along the canal and we are doing the exact opposite and we are leaving it doing nothing. It seems inconsistent to me.

But since I do support using valuable land in strategic ways I think at the end of the day, I would have to agree that we should probably sell the additional 40. Thank you.

Mayor Ortega: Councilwoman Littlefield.

Councilmember Littlefield: I agree we need to sell land. We owned it for many, many years. We will bought it very high in price. We have been paying interest on it for a long, long time. We bought 80 acres, the other 40 we have developed in the fields and the sport fields that we have been using.

40 acres, is still sitting there and we are paying on it accessible we can get our money back if we accept this offer and give it to someone who can build on it and maybe ideas to make something really special there. So I think I will support this. We have owned it for years.

We haven't done anything with it all of this time and I think it's time to move on. So I definitely support the motion to sell it, while the market is high, we can get our price that we want. We can get the money back that the citizens have paid for it and we can take that money and use it for something more spectacular. Thank you.

[Time: 03:31:01]

Mayor Ortega: Thank you. I see no other hands. Please register your hands.

Councilmember Janik: Councilwoman Janik is a yes.

Mayor Ortega: So it is passed 6-1. Thank you very much. Good luck with your purchase.

**ITEM 8 – QUARTERLY FINANCIAL AND CAPITAL IMPROVEMENT PLAN UPDATE**

[Time: 03:31:22]

Mayor Ortega: Next we move to item number 8, quarterly financial and C.I.P., update presentation. And at this point, if we could get staff to come forward or you will handle it forward. Thank you, treasurer.

City Treasurer Andrews: Thank you, mayor and council. This is a brief quarterly financial update. Next slide, please. So the key points for this quarterly update is that the sales tax revenue still continue to outperform with consumer spending.

Overall our general fund revenues are above our budget and overall our general fund expenditures are within our budget. Next slide. And this chart shows our 12-month local revenue strong, and it shows a positive trend. And our general fund local sales tax is up

year-to-date by 25% from the prior year driven by retail and our dining and entertainment category and also \$21.6 million above our budget. Next slide.

In total our general fund revenues are up 22% from prior year and \$48.8 million above our budget. Again, driven by local sales tax and the other category are some land sales that we recognized this quarter. Next slide and as far as general fund uses, it's timing and normal operating variances. Next slide.

And next, by division as well. That ends the quarterly update for my part and I will turn it over to our city engineer.

Alison Tymkiw: Thank you. My name is Alison Tymkiw, the city engineer and I'm here to present the quarterly update of quarter three of the CIP. Oh, wrong way. Okay. So first, I'm going to highlight the bond 2019.

I'm going to go over three -- the three questions of the bond. Highlighting the status of the projects funded currently and then I will highlight specifically one or two projects from each question. After that, I will go over some projects that are in design that are nonbond funded and then I will go over some projects under construction that are nonbond funded. Okay. Question one. One more. Question one is parks recreation, and senior services.

This slide shows the status of the current projects currently funded in the fiscal year 21-22. I will highlight two projects, 53, which is billed the multiuse sports fields in the area of bell road. And 42, which is add a dog park to Thompson Peak Park. So build the sports field. That's the bell road sports complex.

Currently, we are finalizing the facilities there and they are scheduled to be done in June. The field is already done. It's just support facilities under construction. Sorry. First picture shows that. The next phase is the WestWorld sports complex. And currently that's under construction doing grading. You can see that in the lower picture.

[Time: 03:35:32]

And we have recently go to council with the gmp2 that was approved at the April 26<sup>th</sup> council agenda. Gmp2 is including the parking lot and the construction of the fields, landscaping, hard scape, et cetera, lighting and then later we will go for a gmp3 which the finalize the rest room and the office building at that location.

The entire project is set to finish in the winter of 2023. This is projects includes construction of approximately 3.5 acres of off leash developed turf area. Each area will be separately fenced and gated and then there will be a foot bridge to the existing amenities at Thompson Peak Park. The existing amenities at that park include lighted sports fields, covered playground, and open turf area.

This project will also include approximately 100 new parking spaces for the dog park. We recently selected the architect and that was awarded March 29<sup>th</sup> at the city council meeting. We are -- the bond fund for this is around \$4.6 million and construction is in '24/25. Okay. The next question.

Question two is community spaces and infrastructure. And for this I will highlight first one which we all know is the Civic Center Plaza project, and then I will highlight the repair lakes irrigation at Vista del Camino Park in Indian Bend Wash. So here's a photo of the current construction progress at the Civic Center Plaza.

And this project is to provide better pedestrian flow and performance areas. The current construction is focusing on storm drains and water and sewer which are nearing completion, and irrigation is in progress. We have electrical to the west lawn, the 360-degree performance structure. The planter and retaining walls are also in progress and this project has a total bond funding of \$22 million.

On March 1<sup>st</sup>, GMP was awarded, which was finalizing the all the A.V. and the lighting for the stages. And then 23, Vista del Camino Park and the Indian Bend Wash. This is to repair failing lakes and irrigation from McKellips to Thomas and the first phase is what you can see here, it's mostly irrigation work. This is phase one and that's at about 60% design.

Phase two is providing with design as well and we just selected the CMAR for this project and we will bring this for preconstruction phases next council meeting on May 17<sup>th</sup> for consideration of award.

[Time: 03:39:19]

We have two slides for public safety. And technology which is question three. For these projects we have several of them that will be properly wrapping up completion, like, 5, 7, and 11, within the next two or three updates. And I will highlight project number nine, which is install the fiber optic infrastructure to reduce operating costs at multiple locations. This a continuation of question three. You can see some projects that we already highlighted in the past, the police and fire training facility.

That's currently progressing at 60% design, actually a portion of it is at 30% design and the fire station is at 60% design and we are going through the city of Tempe zoning process currently and then also we have 40, which is the jail and the downtown police facility, the architect has been selected and that design is also commencing. And so number nine is install the fiber optic infrastructure to reduce operating costs this is throughout the city to meet the need for network bandwidth to support business operations and reduce dependency on leased communication lines.

We have completed several locations. We recently just completed McCormick stillman railway park and fire station 603 and then we're working to start at the airport, and Gainey Ranch. It's

spread over four years. Then with have a list of the completed projects.

So we have done court resurfacing and sports lighting at several facilities. We also completed several projects at WestWorld and a lot of emergency response and the emergency power source projects. And now I will highlight some nonbond funded projects currently in design.

First, I have the public restroom replacements at several of our city parks. This -- the project -- the design commencement is forthcoming. We have selected an architect Kimley-Horn and we are soliciting for a CMAR and construction will begin probably in early 2023. And then we have Pima road and this to build a minor arterial complete street section including sidewalks and trails and eliminate low flow crossings.

This is and ALCP, an arterial life cycle program project and the design contract was awarded to Michael baker and construction is anticipated to start in 2024. And they are other projects in construction. We have another project down the street, the Osborn Road complete street. Which is -- the construction of bicycle lanes and sidewalk segment, along Osborn to Hayden Road and it includes around Indian bend path and the notice to proceed was April 11<sup>th</sup>. We are planning to be complete early 2023.

And then the final project is the aquifer recovery wells. These are the deep well recharge and recovery facilities for the long-term sustainability of our drinking water and we have four sites with the associated pipelines that go to the water campus. We're currently working on equipping the one site at Miller and deer valley that was already drilled and then the second site at legacy and Miller, the drilling is complete and we are preparing our planning submittals for the equipment of that site.

And then well 16, is and it should be completed in July and the final location is at the Hayden Mayo site which is the axon and we're hoping to be able to get on to that site in August or September to begin drilling there. And that's all I have. Any questions?

[Time: 03:44:12]

Mayor Ortega: I will lead off, first of all, thank you very much.

Alison Tymkiw: Sure.

Mayor Ortega: You were multifaceted and that's great. I my first is for treasurer Andrews. We took an action on item 7 to sell a property \$42.7 million. Can you just explain how that books when it closes somewhere around June because we already are in budget process. So just fill me in on the next steps and how it fits into the budget.

City Treasurer Andrews: Yes, mayor and council. When we sell the piece of property and receive the \$42.7 million, even though it's not included in the proceeds budget that will be coming before you, we do have enough contingency if we have identified a project to spend the money

on. There are restrictions on the proceeds and it will take our bond council and our tax attorneys some time to figure out and calculate what those restrictions are. So in the meantime, we will be putting it into a special fund so that it's restricted and reserved until the bond council and our tax attorneys can calculate the restrictions on that money.

Mayor Ortega: We have a commitment to the voters, bond 2019, it as excess of \$319 million, very significant citywide, and there -- as treasurer mentioned, there may somebody cost overages and the construction that's going on, we are committed to doing that and we are submitted to doing every one of those projects and the money that was tied up in the land can be put into other projects. They become assets to our city.

In particular, I do want to so that's \$42.7 million, whether \$10 million is restricted or whatever it is, we will still get the bulk of, that probably returned to the general fund and somehow we will make decisions on that piece by piece, I guess. Is that correct?

City Treasurer Andrews: Mayor and council, absolutely, once we have the calculations done and know exactly how we can apply the proceeds accordingly, we will bring that back to council.

[Time: 03:46:45]

Mayor Ortega: Good. Now, one of the bond projects that I do favor and it's item number 42, that is the dog park at Thompson Peak. It's an important infrastructure. The dogs and pets kept us going through COVID.

It's part of the bond approved project and I definitely want to see how that can be moved forward in construction having one or two year delay in between design is -- we may as well -- these costs are going to escalating and I'm giving you my two cents on that.

The other thing we are covering in this discussion is how important water is. Putting them into that aquifer is very important. We had the opportunity to storage underground versus building above ground containers. Some cities have really a problem with their water table and what they are dealing. With but we have that.

One the discussion points we had about water, with Mr. Biesemeyer was how we might look at advancing our five-year horizon of bumping water from the Old Town to the recycling point. Do consider that we do have an urgency to it. We are not Pollyanna. We can't dance along and we are above the water shortage. We have to take action and I would like you to -- as I mentioned to Mr. Biesemeyer look at worst case scenario and I'm sure I will and this is run within when we can provide infrastructure that ends up cleansing water, it's worth many times its value.

That's how we as a city make infrastructure pay back. So I would we will expect a master plan. The Colorado provides 76% of our water. If in two years, we do not improve, and the trend is not our friends. I'm glad we have resources. I see Councilwoman Whitehead and for the record,

at this point, this is just a report. It's not an action. That's correct. Any comments we have will be useful. Councilwoman Whitehead.

Shane Stone: Mayor Ortega, I'm sorry for the interruption. We also have a hand raised from Councilwoman Janik.

Mayor Ortega: Okay. Thank you. Let's go to Councilwoman Janik.

[Time: 03:50:06]

Councilmember Janik: Thank you, mayor. I have a quick question for our city engineer Alison. Can you tell me what the current construction of that road at Pima is, Pima and dynamite, it was on one of your slides. That we will make wider. I was curious what the existing surface is.

Alison Tymkiw: Councilwoman Janik, and members of the council, I'm sorry, I didn't hear your question.

Councilwoman Janik: Had you a slide to improve the road from prima and dynamite. I wondered what do we currently have there?

Alison Tymkiw: Yes, we are improving the landscape medians. We are improving the sidewalks. We are improving the trails on each side of the road, bike lanes as well, and we are eliminating the low flow crossings, I mean the wet crossings and so –

Councilmember Janik: Is it one lane in each direction?

Alison Tymkiw: It's two lanes in most of that stretch.

Councilmember Janik: Thank you.

Mayor Ortega: Councilwoman Whitehead.

Councilmember Whitehead: I was going to congratulate Ms. Tymkiw and welcome her to the Kiva.

Alison Tymkiw: Thank you, Councilwoman Whitehead.

Mayor Ortega: I opened public comment and we have this discussion, and I see none. So accordingly, I will close public comment. This is part of a due diligence that we do as we look at how the city builds wisely and responds swiftly to our needs. Thank you. We are concluded with that item.

**ITEM 9 – PUBLIC HEARING ON THE CDBG PROGRAM FISCAL YEAR 2022/23 ANNUAL ACTION PLAN, THE ALLOCATION OF CDBG FUNDS AND THE FOURTH SUBSTANTIAL AMENDMENT TO THE FY 2019-20 ANNUAL ACTION PLAN**

[Time: 03:51:57]

Mayor Ortega: We will go on to item number 9. Item number 9 is the public hearing on the community development block grant, CDBG program for the fiscal year 2022/23. The annual action plan, the allocation of CDBG funds and the fourth substantial amendment to the year 2019/2020 annual action plan so thank you. Please present.

Mary Witkofski: My name is Mary Witkofski. This is the time set aside for a public hearing for the fiscal year 2022/23, CDBG annual action plan allocating our CDBG funds along with the fourth substantial amendment to the fiscal year in 2019/2020, annual action plan.

The community development block grant was designed to re-enforce -- I don't know how to move the slides. Flexibility that empowers people and communities to design and implement strategies tailored to their own needs and priorities. This program expands and strengthens our partnerships among all levels of government and the private government in enhancing our community.

Technical assistance activities and set asides for grantee builds the capacity for our competitors. This is given to populations with every 50,000. Eligibility expenditures include public services, housing activities, public facilities, economic development. A minimum of 70% of our funds must be used to benefit low and moderate income Scottsdale households.

Expenditures must be consistent with the five-year consolidated plan adopted in 2020. The fourth substantial amendment, Scottsdale received an annual allocation of \$2.5 million in 2020 through the community development block grant through our cares funds to prevent, prepare for and respond to COVID-19.

We're requesting to reallocate an estimated \$394,000 to supportive services to further affordable housing and homelessness here in Scottsdale. Supportive services is defined by H.U.D. as services that assist a client in the transition from the streets or shelters into permanent or permanent supportive housing. That assists them to live successfully in housing.

This reallocation is the Paiute park center through the ramada and a campus bus trolley start and along with reprogramming unspent funds in the temporary homeless hotel and our day relief centers as well as portable A/C units to better address the housing crises needs here in Scottsdale through supportive services.

So to our fiscal year 2022-23 annual process. HUD requires us to come before you to accept these funds. The human services commission funding discussed the funding and informal funding recommendations also in on the 24<sup>th</sup>, the human services commission made formal funding prejudices that are being brought forth to you tonight.

We are required to hold a public hearing and submit a plan to housing and urban development. These funding allocations would become effective as of eventual 1<sup>st</sup> of 2022. This year long process or this year's process we have an estimated -- the city is still waiting to receive the allocations.

We are estimating to receive \$1.1 million in our fiscal year '22/23 allocation. We have approximately \$79,000 money in our reprogram income and program funds giving us an estimated amount available for programming at 1.19 million.

[Time: 03:56:33]

Some award recommendations that came forward is 894,582 for programs and services. 239,614 for our planning and administration, with a total recommendation of award of \$1.1 million. This leaves us a balance of 63,000 to reprogram in fiscal year '23/24. Recommendation coming before you are approximately \$67,000. That includes youth, domestic violence victims, seniors, disabled homelessness and crime prevention with our Scottsdale Police Department. For our non-service programs we have our housing and rehabilitation programs our green housing rehab, our emergency repairs and our roof and replacements, at \$276,000. And we have a facility improvement project at \$450,000. Our street -- this is a street project.

It will be a pavement and reconstruction along with ADA upgrades to then those in Holly Street, 87<sup>th</sup> place, Cypress street, Monte Vista road, and 300 Scottsdale residences are in this area. And 34% are at or below 80% of median income. The remaining amount of funds will be designated to our program administration.

So today we seek your adoption of resolution 1245 to approve the fiscal year 2022/23 annual action plan and the fourth substantial amendment to the fiscal year 2019-2020 annual action plan, and authorize the use and award of the allocation of our CDBG funds for eligible programs and services. That concludes my presentation.

Mayor Ortega: Thank you. And we are required to have a public hearing on this. For the record, I'm opening for public comment. I see none. So therefore, I will close public comment.

The one observation I had. This was a little slack of 68 or \$69,000 that might be applied for the next year or this coming year.

Mary Witofski: Mayor Ortega, councilmembers that's correct. There's approximately \$63,000 in reprogrammed funds that we designate in fiscal year '23/24.

Mayor Ortega: And with that, I would move for approval to adopt resolution number 12451, to approve the FY-2022/23 annual action plan and the fourth substantial amendment to FY-2019/2020 annual action plan and authorize the use, award and allocation of CDBG funds

and funds for eligible programs and services and associated contracts, reprogramming of prior year's remaining funds and return of program income. Mayor, city manager and community assistance manager to take certain actions further this resolution.

Councilmember Whitehead: Second.

Mayor Ortega: A motion and a second? Any discussion? Seeing none, please register your vote.

Councilmember Janik: Councilwoman Janik is a yes.

Mayor Ortega: Okay. Unanimous. Thank you.

[Time: 04:00:20]

At that point, we are moving on to item number 10, as shown which is a citizen -- excuse me -- the -- at point we have the opportunity to open for public comment, citizens from the community to come forward if there was something that was not on the agenda. And they could make public comment.

Is there something I needed to do Rommel? Okay. I do recognize you with that mask on. Thank you. Okay. Accordingly, I do not see any public comment. Second opportunity. Going once, and I close the public comment.

Moving on to citizen petitions, that's always posted. According to our charter, and it allows citizens to come forward, submit a petition. I see none. None was registered with the clerk. So I will close that item.

Moving on to mayor and council items. Any comment? And I will ask Councilwoman Janik because you are -- did you have any comment?

Councilmember Janik: No, I'm good. Thank you.

Mayor Ortega: Thank you very much. Accordingly, I will close item number 11. That was the mayor and council items.

**ITEM 11 – BOARD AND COMMISSIONS AND TASK FORCE NOMINATIONS**

[Time: 04:01:53]

Mayor Ortega: The next one is item 12, boards and commissions. And task force nominations. At this point, we are only doing nominations for several openings. I now turn the meeting over to Vice Mayor Caputi for the boards and commissions and task force nominations.

Vice Mayor Caputi: Thank you, Mayor. Let's see if I can speed through this. This evening, the City Council will be nominating Scottsdale residents interested in serving on citizen advisory

boards, commissions, and committees.

The Scottsdale City Council is responsible for establishing city policies and enacting laws in support of those policies. The Council relies on volunteer, citizen-based boards and commissions to research issues and make recommendations in support of the Council's mission and goals. The information and recommendations provided by Council-appointed advisory boards is a valuable tool in helping Councilmembers in their deliberations. Appointments for these positions will be made at a Special City Council Meeting on Tuesday, May 17th.

#### **BOARD OF ADJUSTMENT**

[Time: 04:02:56]

Vice Mayor Caputi: So, we will start with the board of adjustments. There's one opening. Daniel Ishac resigned in March. There is one vacancy and three applicants. I will shake things up and start with Mayor Ortega.

Mayor Ortega: Gary Donahoe.

Councilmember Littlefield: No additional.

Councilmember Janik: No additional.

Councilmember Durham: No additional.

Vice Mayor Caputi: No additional for me as well. I guess that's good. Oh, we have to keep going.

Councilmember Milhaven: No additional.

Vice Mayor Caputi: It's so confusing when it's nominations. Councilwoman Whitehead.

Councilmember Whitehead: No additional.

Councilmember Milhaven: And I have no additional.

Vice Mayor Caputi: So Gary Donahoe has been nominated. Thank you.

#### **HUMAN SERVICES COMMISSION**

[Time: 04:03:57]

Vice Mayor Caputi: Human services commission. There's three openings. Jayne Hubbard, Emily Reilly, and Raoul Zubia resigned in April. There are three vacancies and three applicants. I will now entertain nominations for the human services commission. Each councilmember can nominate three applicants and we will start with Councilwoman Littlefield and go in line.

Councilmember Littlefield: Okay. Thank you. Patrick Dodds, Mary Jung and Stuart Turgel.

Councilmember Janik: No additional.

Vice Mayor Caputi: Okay. We can be done. They have been nominated.

**LIBRARY BOARD**

[Time: 04:04:38]

Vice Mayor Caputi: Library board has one opening. Marna McLendon's term expires in May. She is eligible for reappointment and has submitted an application for consideration. There is one vacancy and two applicants. Each councilmember can nominate one.

Councilmember Janik: Marna McLendon.

Councilmember Durham: No additional.

Vice Mayor Caputi: No additional for me as well.

Councilmember Whitehead: No additional.

Councilmember Milhaven: No additional.

Mayor Ortega: No additional.

Councilmember Littlefield: No additional.

Councilmember Whitehead: No additional.

Vice Mayor Caputi: Marna McLendon.

**MCDOWELL SONORAN PRESERVE COMMISSION**

[Time: 04:05:17]

Vice Mayor Caputi: McDowell Sonoran Preserve has one opening. Cynthia Wenstrom's term expires in May and is ineligible for reappointment. There is one vacancy and nine applicants. We will start with councilman Durham.

Councilmember Durham: Robert Hallagan.

Vice Mayor Caputi: I am nominating Scott Bartle.

Councilmember Whitehead: Savannah Engelking.

Councilmember Milhaven: Mike Savastio.

Mayor Ortega: No additional.

Councilmember Littlefield: No additional.

Councilmember Janik: No additional.

Rommel Cordova: Scott Bartle, Savannah Engelking, Robert Hallagan and Mike Savastio are nominated.

Vice Mayor Caputi: Fantastic.

**PARKS AND RECREATION COMMISSION**

[Time: 04:06:23]

Vice Mayor Caputi: Moving on to parks and rec. Maryann McAllen's term expires in May, is eligible for reappointment, and has submitted an application for consideration. There is one vacancy and ten applicants. I will now entertain nominations for parks and rec. Each councilmember can nominate one applicant. I will start with myself, and I nominate Mary Ann McAllen.

Councilmember Whitehead: No additional.

Councilmember Milhaven: No additional.

Mayor Ortega: No additional.

Councilmember Littlefield: No additional.

Councilmember Janik: No additional.

Councilmember Durham: No additional.

Vice Mayor Caputi: Mary Ann McAllen has been nominated. Okay. It's a lot of pages. Sorry.

**PLANNING COMMISSION**

[Time: 04:07:22]

Vice Mayor Caputi: Planning commission. We have Barry Graham resigned in March. Renee Higgs' term expires in May, is eligible for reappointment, and has submitted an application for consideration. There are two vacancies and 14 applicants. I now entertain nominations for planning commission. I will start with Councilwoman Whitehead.

Councilmember Whitehead: Robert Fishman and Anthony Leavy.

Councilmember Milhaven: Jeff Brand and Renee Higgs.

Mayor Ortega: Diane Kaminski and Ed Peaser.

Councilmember Littlefield: Lori Coe and Michael Joyner.

Councilmember Janik: No additional.

Councilmember Durham: No additional.

Vice Mayor Caputi: I will nominate Jeff Brand and Renee Higgs, please. I will just add Jason Heetland.

Rommel Cordova: I want to make sure I got your selections correctly. So if you can repeat yours, the two you selected.

Vice Mayor Caputi: Jeff Brand And Jason Heetland.

Rommel Cordova: Thank you.

Vice Mayor Caputi: Do you want to read those off for me?

Rommel Cordova: The individuals nominated are Jeff Brand, Lori Coe, Robert Fishman, Jason Heetland, Renee Higgs, Michael Joyner, Diana Kaminski, Anthony Leavy and Ed Peaser.

Vice Mayor Caputi: Fantastic.

#### **TOURISM DEVELOPMENT COMMISSION**

[Time: 04:09:19]

Vice Mayor Caputi: Tourism and development position we have two openings one is Scottsdale hotelier and one is for an industry rep. This commission has special qualifications. As specified in the Scottsdale City Code, the Tourism Development Commission shall consist of representatives of the tourism industry in Scottsdale, including a minimum of four Scottsdale hoteliers, one member of the Scottsdale Convention and Visitors Bureau, and a balance from elements of the tourism industry. Ken McKenzie resigned in April. He represented a Scottsdale Hotelier position. Jeanne Alspaugh's term as an Industry Representative expires in May. She is eligible for reappointment and has submitted an application for consideration. There is one Scottsdale hotelier applicant. The applicant is: Steve Jung.

I will now entertain nominations for tourism development commissions Scottsdale hotelier opening. Each councilmember can nominate one Scottsdale hotelier applicant.

And I believe we're up to Councilwoman Milhaven.

Councilmember Milhaven: Our package says one hotelier and one industry rep.

Rommel Cordova: Vice Mayor and Councilmember Milhaven, we have broken them down. So we will vote for this one first. And then the other.

Councilmember Milhaven: Thank you. Steve Jung.

Vice Mayor Caputi: Okay. I think Steve Jung has been nominated.

Mayor Ortega: No additional.

Vice Mayor Caputi: Do we need to keep going? So tourism development commission has two openings and we still have one in the industry rep. So there is one industry position vacancy and eight applicants and I will now entertain nominations for tourism industry applicant. And I will nominate Jeanne Alspaugh. Councilwoman Whitehead.

Councilmember Whitehead: No additional.

Councilmember Milhaven: No additional.

Mayor Ortega: No additional.

Vice Mayor Caputi: Councilwoman Littlefield.

Councilmember Littlefield: No additional.

Councilmember Janik: No additional.

Councilmember Durham: No additional.

Vice Mayor Caputi: Jeanne Alspaugh has been nominated.

#### **TRANSPORTATION COMMISSION**

[Time: 04:11:33]

Vice Mayor Caputi: The Transportation Commission has one opening; however, no applications have been received at this time. This concludes our nomination process this evening. Individuals nominated will be contacted by city staff with additional information. I would like to sincerely thank all who applied to serve on a citizen advisory board or commission. Even if you were not nominated, your application will remain on file for one year for consideration at a future date if there are additional Vacancies. Back to you, Mayor.

Mayor Ortega: Thank you. Are there any other mayor and council items tonight? Okay. Hearing, seeing none, I want to clarify something. We started the evening at 4:00 with a work study. And that had posted two items. We covered one regarding the water shortage.

And the other one is -- is as posted, deals with the question of purpose or -- for a sales tax. I just want to mention that kind of openly because we will be adjourning our meeting right now. But just for discussion, are there any other openings for work study in the calendar for the 17<sup>th</sup>? Otherwise, we will go into that.

It's a pretty long subject and I just want to point that out, that the 10<sup>th</sup> of May is open. That is no council that day. I just want to poll us openly or if the if we want to go ahead, just for some thoughts city manager.

[Time: 04:13:20]

City Manager Thompson: Mr. Mayor and members of council, we could definitely look to reschedule the study session. The reason we're back for you this evening, is that council asked us to bring this item back and so we definitely could look at the 17<sup>th</sup>, and a future agenda make sure it's plausible. It will probably take a little bit of time to go through and so it might be wise to look to reschedule.

Mayor Ortega: I would agree with that. Councilwoman Whitehead and --

Councilmember Whitehead: I think we are on a pretty tight timeline because of the tax and having to set up the committee, the citizens committee. We -- don't we do some of our best work at 10 p.m.?

I would just assume stay here, but I don't know where the others are, and Councilwoman Janik is on the East Coast. So I will let other people weigh in. I just assume stay.

Mayor Ortega: Again, what we can do -- I will be asking for the motion to adjourn this regular meeting, and then we would reconvene at -- in 7 minutes and at that point we may decide it's better to reset that. Well, it's -- it's -- do you want to go right into it. Let me go ahead and ask for a motion to adjourn our regular meeting.

Councilmember Whitehead: So moved.

Vice Mayor Caputi: Second.

Mayor Ortega: Please register your vote. Okay. So we are adjourned with our regular meeting. Now, it's not a question of -- well, for the record, I will reconvene our work study in five minutes.