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CALL TO ORDER

[Time: 00:00:03]

Mayor Borowsky: I now call the February 18, 2025 City Council Regular Meeting and Work Study Session to order. Clerk Ben Lane, please conduct our roll call.

ROLL CALL

City Clerk Ben Lane: Thank you, Mayor. Mayor Lisa Borowsky.

Mayor Borowsky: Present.

Ben Lane: Vice Mayor Jan Dubauskas.

Vice Mayor Jan Dubauskas: Present.

Clerk Ben Lane: Councilmembers Barry Graham.

Councilman Graham: Present.

Ben Lane: Adam Kwasman.

**CITY OF SCOTTSDALE
FEBRUARY 18, 2025 REGULAR MEETING AND WORK STUDY SESSION
CLOSED CAPTION TRANSCRIPT**

PAGE 2 OF 41

Councilman Kwasman: Present.

Ben Lane: Kathy Littlefield.

Councilwoman Littlefield: Present.

Ben Lane: MaryAnn McAllen.

Councilwoman McAllen: Present.

Ben Lane: And Solange Whitehead.

Councilwoman Whitehead: Here.

Ben Lane: Interim City Manager Greg Caton.

Greg Caton: Present.

Ben Lane: City Attorney Sherry Scott.

City Attorney Sherry Scott: Present.

Ben Lane: City Treasurer Sonia Andrews.

Sonia Andrews: Here.

Ben Lane: Acting City Auditor Lai Cluff.

Lai Cluff: Here. Here.

Ben Lane: And the Clerk is present. Thank you, Mayor.

Mayor Borowsky: Thank you. Tonight, we have Scottsdale Police Officer Josh Bayfield and Detective Dustin Patrick, as well as Firefighter Emma Hayden in the event anyone needs special assistance, please let us or any member of the staff know. I would like to ask Councilman Adam Kwasman to help us with the Pledge of Allegiance, or I should say lead us.

PLEDGE OF ALLEGIANCE

[Time: 00:01:05]

Councilmember Kwasman: Please join me in the Pledge of Allegiance. 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 Borowsky: Thank you. And Councilwoman Whitehead, would you like to touch on the invocation.

INVOCATION

[Time: 00:01:31]

Councilwoman Whitehead: Sure. I guess I would ask everybody here to join us in a moment of silence and to take consideration of the war zones around the world that are happening right now. Thank you. Thank you.

MAYOR'S REPORT

[Time: 00:02:16]

Mayor Borowsky: Thank you. As for the Mayor's Report this evening, I would like to invite all of you, all of the community to attend or watch live the State of the City Address, which will occur at the Scottsdale Princess Resort, beginning at 8 A.M. on Wednesday, February 26th, and for those of you who can't attend in person, we will have that on Channel 11. So please tune in and we'll see you there. Hopefully. Presentations.

PRESENTATION/INFORMATION UPDATE

[Time: 00:02:47]

Tonight, we have a presentation regarding an update from the Scottsdale Railroad and Mechanical Society, presenting tonight is William Scarborough, Scottsdale Railroad and Mechanical Society Board President. As a reminder, the City Council will make will not make comments or ask questions of this presenter. However, no action will be taken at this time. Thank you, and welcome.

Scottsdale Railroad and Mechanical Society Board President William Scarborough: Thank you, Mayor, Vice Mayor and Council. My name is William Scarborough, Scottsdale resident. I am currently the board president for the Scottsdale Railroad and Mechanical Society. I apologize. I'm used to being on the other side of this. So, I will work through these slides as best I can. I apologize. Let me get closer to the mic.

I wanted to provide the general history of the society. It was chartered in 1972 by Guy Stillman. Interestingly enough, four years prior to the park's opening, our first board meeting was in 1972. As we know, this is our 50th year, our golden jubilee anniversary of the park. We will be celebrating this year. It opened in October of '75.

A little history, or recent history for the board. In 2012, in January, we opened the model railroad

building. That model building through collaboration of stakeholders in the area and ourselves, we were able to completely build that \$3.2 million project without city funds.

In 2013, the Society was inducted into the Scottsdale History Hall of Fame: Just looking back since 2010, our Board has contributed financially to the park of \$5.8 million of which is part of our the play structure for the new roundhouse building that will be coming this summer.

And just a little bit of history for last year, because we like to sort of do what happened last year and what we're expecting for this year. In 2024, we had 430,000 people ride the train. That's a pretty impressive number, I think. It's amazing. We had a number of special events, we had Rhythm at the Rails spring concert which we had over 1700 people participate. We had 2,000 participate in the Exclusively Little Expo. We had 125 campsites for Tents by the Tracks. If you haven't done that with your family, I highly recommend it. We had over 10,000 participate in the Summer Concert Series that we hold each summer. 1,500 for the Red, White and Choo-Choo. 600 for Slide the Rails, a whopping 20,000 for Spook-trackula and over 40,000 for Holiday Lights.

[Time: 00:05:34]

So, this year, our jubilee year. It's a very special year for us. The park staff have gone out of their way. One the engines they wrapped in gold and they are coming up with more special events each month. To highlight in February, they participated in the Parada Del Sol to get the word out. In March we have the Rhythm and Rails and the Exclusively Little Expo. And in April, we start with the Tents by the Tracks and then we'll start with the Tracks and Tunes concert series. June we anticipate having the splash pad open and this is just in time for the summer and long overdue. This project has been something we have been working on for quite some time and I cannot wait to see that splash pad open. Following June, right after, we're hoping the beginning of July, we will have the Roundhouse grand opening. And just for those who aren't aware, it's going to be a steam engine with a tender. Kids will be able to play on all multiple levels, even the smokestack will be a net maze for them to play in. It will be spectacular. In October, we're going to celebrate the golden jubilee. The Society will be putting on an appreciation event then for the 50th anniversary and we will start with the Spook-trackula and for the second year, we will be doing Noon-Years-Eve which is a special event to celebrate new year's but in the middle of the day.

And then just do a little highlight, the roundhouse project has been consuming a lot of our time to make sure it comes off just right for the city of Scottsdale. You can see a depiction here, our artist rendering of what it will look like. This structure is magnificent and huge. I've gotten out twice to the facilities built in Tucson. It's being built by creative machines and it's enormous! The outdoor splash pad will be part of it and just as a reminder, we are adding additional shade and shade trees just to help people around the splash pad area and just around the park in general. That's all I have for right now. Just want to make sure you all knew what was going on '24 and '25 and if there are any questions from the Council, I would be happy to answer, and we also have park staff here if there's any questions that the park can answer for you.

Mayor Borowsky: Thank you, Mr. Scarborough. We also have a couple of comments or questions. Councilwoman McAllen.

[Time: 00:08:10]

Councilwoman McAllen: Thank you, Mayor. Thank you for this presentation. I'm very excited. I was on the Parks and Recreation Commission when we voted on this. I just wanted to make a comment that this play structure inside the building has features that are handicapped accessible to children IN wheelchairs which is important to the city. I want everyone to realize that it's ADA compliant.

William Scarborough: Thank you for that. You are correct. There are features that help with lights and as far as accessibility on the ground floor. So, we try to capture as many of the disabilities as we can for amenities with this train. Thank you.

Mayor Borowsky: Thank you Vice Mayor Dubauskas.

Vice Mayor Dubauskas: Thank you, Mr. Scarborough. Thank you for the tour last week. I was so excited to see everything that's going on at the Railroad Park. My girls love the Railroad Park. Every time we go there, it's always an adventure. I appreciate the investment, the time, and the volunteer role that you have and the members that you bring to the table, but also the consistency that this bringing to our community. You were telling me that this gets international notoriety. Can you talk a little bit more about who comes to the train park because I think that's very impressive as well. Thank you for your work.

William Scarborough: Oh, absolutely, I may possibly have Stephanie come down and provide some additional detail, but I can tell you based on tracking that the park has done, that 70% of the attendance is from individuals outside of Scottsdale. How that breaks down internationally, we do have international visitors, but hopefully maybe Stephanie can provide a little insight on that, but I'm not sure how much detail. If she can't, we will be sure to get you that information.

Stephanie from the Railroad Park: Good evening, Mayor Borowsky, Councilmembers, I don't have an exact number how many visitors come from international waters, but we use placer A.I. to track that data. I'm happy to provide last year's report after this meeting. Thank you.

Vice Mayor Dubauskas: Thank you for what you are doing, appreciate it.

William Scarborough: Thank you as well.

Mayor Borowsky: Thank you for your wonderful presentation and efforts out there. Great job.

William Scarborough: Appreciate it. Thank you so much.

Mayor Borowsky: Special Executive Meeting announcement, during tonight's meeting, like all meetings,

all regularly scheduled meetings, the Council may engage in a motion to recess into Executive Session, in the event it needs to obtain legal advice on any applicable item on the agenda.

PUBLIC COMMENT

Turning to first public comment announcement. Public comment during this period of time is reserved for Scottsdale citizens, business owners and/or property owners to comment on non-agendized items that are within the Council's jurisdiction. No official Council action can be taken on these items and speakers are limited to three minutes in order to address them.

If you wish to speak on a non-agendized item, or an agendized topic, please see Clerk Ben Lane, and I see we have five speakers that have signed up to talk, starting with Harold Back followed by Laura Schwartz, Dan Ishac, you can start making your way toward the podium and then lastly Britnie Britto and Linda Milhaven.

[Time: 00:11:37]

Harold Back: Good evening, Mayor and City Council. Thank you for very much for taking the time to listen to us. We formed an organization several years ago called the 68th Street Sidewalk Association, primarily to deal with the development of a sidewalk from Indian Bend to, I mean from Indian School, excuse me to Camelback Road along 68th Street and if you would bear with me, I have a presentation that I will play to you off my computer. It's the words that I wrote.

Audio Transcript: Speech on. Empty line. Page 1 of 6. 68th Street Sidewalk Association address to Scottsdale City Council. Ladies and gentlemen, we want to congratulate you all for your recent success in the November elections and wish you every success in completing or community is strong and deserves the finest and most visionary leadership to steer our community towards the future that represents the finest our city has to offer.

It's also timely that we acquaint this body of the project working its way through the administrative and development process to getting completed. In large part, we hope to ensure your continued support and to help you to fundamentally understand this community driven project and its importance to our neighborhood and our city. This is a project of public safety. Access to people who are challenged with disabilities and to ensure the surrounding neighborhood the ability to integrate with and connect with all the historic infrastructure the city has already invested in.

Forgive me, but I would like to start at the very beginning to make sure we all understand its genesis and how we got to a place of having broad community support and the support of the leadership of the City Council and staff within the city. I finished blind school and being proud to be able to navigate the use of public transportation. I took the bus. Getting off at Indian School and 68th Street. Assuming a simple walk to my home, I crossed the street. Walked over the bridge and crossed over the small street and thinking there was a sidewalk. I was confronted with the fact that there was none. I went to the side of the dirt to the blacktop and started to walk northward. I cannot I heard cars speeding towards me and

sometimes they were close enough that I could touch them. I challenge each and every one of you to walk that walk with me any time to experience the intensity of that terror. Call upon me any time. Bring every bit of your courage with you and let us walk. This is not about me alone. I later met people who were in wheelchairs to traveled that route. Parents with strollers, joggers, bikers, workers going to work at the mall or headed home, all of them enduring the great risk, to get to the canal or walk south of Indian School to the mall or to the mall to Valley Ho or to take Camelback Road bus or the Indian School bus.

All of these people signed a petition imploring the city to do something, to finish a piece of infrastructure that would improve everyone's life, strengthen the neighborhood and the quality of life in the area. During our efforts in collecting significances and support the tragic death of Judge Moras at 56th Street and Camelback. Vehicles speed and weekend racing and shenanigans are well documented. It takes vision and leadership to do the right thing. It takes strength and fortitude to stand up for what is correct. The citizens of our community have elected you to do just that, to take care of the business of the city. Taking care of the citizens of our city whether they live north or south. We have entrusted our future. Text field body. We ask you to please continue the work of this important citizen-driven project. Complete the 68th Street sidewalk. Keep our city and its citizens safe. We trust that you will honor that duty and this project and other projects in the city that have been brought forward by community and our citizens. We are happy to answer any questions you may have and will do what is needed to complete this extraordinary undertaking.

Mayor Borowsky: Thank you very much. Thank you.

Harold Back: I apologize for going a little over time but thank you for your indulgence.

Mayor Borowsky: You're fine. Thank you very much. We very much appreciate your input.

[Time: 00:16:32]

Laura Schwartz: Okay, hi, I'm Laura Schwartz.

Mayor Borowsky: You are next on my list.

Laura Schwartz: Yes, I'm the other half of the 68th Street Sidewalk Association, the two people that went out and collected all of those signatures. And helped walk this through the process through the Transportation Department and city Council to seat that this project ended up to be part of the Capital Improvement Plan.

I wanted to add to what Harold said in that Harold said, an observation that I noticed in the last few months. We have the shared bird scooters and the popularity of using electric bikes which are moving at extraordinary speeds and from my house off the 68th Street, I see them zipping by. Luckily, I have not been walking in the bike lane when these people are speeding through the bike lane, and I'm here to remind you, the urgency of this 68th Street sidewalk construction has not gone away. We absolutely

must get that done so that there are no tragic accidents coming from the lack of infrastructure on 68th Street. Thank you.

Mayor Borowsky: Thank you very much. Dan Ishac. Followed by Britnie Britto and then Linda Milhaven.

[Time: 00:17:58]

Dan Ishac: Dan Ishac, address on the record. Two quick topics tonight. First is some more of my comments about your DEI elimination since comments were limited to one minute in the last meeting. A couple of points worth amplifying especially considering the false information that is out there. First, the city did not have any preferences or quotas based on demographic information, qualifications and merit were the factors for hiring and promotion. There were no equity goals within the city. Education and tolerance were some of the goals of the diversity office.

Last week, I mentioned that some people might not understand why observant Jews wear a kippah or understand why that Shabbos might intentionally require an individual to have to leave early on a Friday or why a Muslim woman might wear a hijab and why a Catholic might have ashes on his or her forehead on March 5th or why an immigrant might celebrate their birth nation's Independence Day. Understanding lessens ignorance which lessens discrimination. But you did away with that. Our Diversity Office worked with other departments to ensure all residents and visitors feel welcome in Scottsdale. Many businesses and organizations whether one believes it to be right or wrong required tourist destinations to demonstrate a welcoming atmosphere. This could be through a diversity office, an DNO or PR materials that demonstrate heterogeneity. By eliminating our diversity office was reckless.

Mr. Kwasman as I mentioned last meeting, words matter. You need to stop using inflammatory words and dog whistles. It's shameful from anyone, but particularly someone in an oppressed group. Does anyone else find it ironic this they stopped funding any diversity programs for any staff but is going to approve \$48,000 for the Persian Festival in March. A lot of money for a single ethnicity. I support that expenditure, but it seems contrary to what you all believe.

For my second item, I would like to play (audio recording): Before Council or somebody that you could reasonably expect to have business before Council. One of the first actions that I will take, is I will adjust our ordinance. Right now, the gift ordinance says that they can't take gifts from people. I believe that gifts are also campaign donations. Nobody should be taking campaign donations. It's a conflict of interest and it doesn't represent you. My campaign takes...

Dan Ishac: So that's Ms. Dubauskas at an L.D. meeting making a promise. I mentioned in January how Ms. Dubauskas violated that pledge, even before she was sworn in by taking money from developers and others expected to have business before the Council. Even worse, at the last meeting, you did not recuse yourself on voting for the parking structure design despite the primary championing of this effort by Bob Pejman, a business owner who believes that his lack of sales is due to parking. Mr. Pejman contributed to your campaign and to others. Yet you all voted for it. Isn't that the very conflict of interest you campaigned against or are you just another politician that says whatever is necessary to get

elected? And it's time that we stop corporate welfare from the city.

Mayor Borowsky: Thank you, Mr. Ishac. Britnie Britto.

[Time: 00:21:33]

Britnie Britto: All right. Thank you for your time. As an AZ transplant, I always admire the green space, tree canopy and walkability that Scottsdale has to offer, similar to my hometown in Maryland. As someone who worked full-time while obtaining their master's degree at A.S.U., I commuted between Tempe, Phoenix and Scottsdale and realized the drastic differences in the streets and overall landscape as a commuting.

As a global futures alum and now Scottsdale resident I was informed the work and dedication to the Scottsdale Sustainability Plan was rejected. Here to experience the importance to rescind that negotiation. We all experience extreme heat temperatures all the way into October this past year. Even though sustainability is more than just heat, that's all I really have in three minutes to explain, but the quality of our environment has a quality on our mental, physical and well-being. Please consider to implement if not all of the sustainability options that took three years to reach approval in December and uphold the elite status that Scottsdale holds itself up to.

Mayor Borowsky: Thank you very much. Linda Milhaven.

[Time: 00:22:53]

Linda Milhaven: Good evening. Linda Milhaven, I live on Belgian Trail. I've often heard many of you speak on the need for government to be open and truthful. But you failed to meet the fest last week, eliminating the Office of Diversity. There was no outreach for resident input this was no staff presentation, and it was erroneously asserted that Scottsdale was using discriminatory hiring practices. Also, the ordinance reads, the use of city funds for DEI shall discontinue. This sentence is vague and is leading to confusion. Did you mean all programs impacted by the Office of Diversity? I understand the Mayor's Office is moving forward with the Mayor's Ability Awards which provides scholarships and which according to the city's website underscores the importance of education and fostering inclusivity of students with disabilities. It was supported by the Office of Diversity. I applaud the Mayor for moving forward this program, but it could contradict the ordinance passed last week. If not all programs are to be eliminated, which ones are you keeping and which ones are you eliminating? Did you mean other programs throughout the city? Is there to be a hunt throughout the city for other DEI programs?

Councilmember Kwasman seems to think that the ordinance passed gives him permission to censor library programs. The Arizona Republic reported his concerns about Scottsdale for all story time. The January session was a Braille story time and February recognized Black History Month and March geared towards autism spectrum audiences. City Council does not have the authority to interpret how an ordinance is implemented. The City Charter, Article 2, Section 16 deals with interactions with employees and reads, the Council and its members may interact with such employees for the purpose

of inquiries, however, neither the Council or any of its members, nor any of its members shall give orders to any such employees either publicly or privately. In short this means you do not execute policy.

As the City Council you pass an ordinance, and the staff interprets and implement the ordinance. It's vague and creating confusion. Please direct staff on what criteria they should decide on what gets funded and does not get funded. The charter also tells you that you cannot direct charter officers to reprimand someone who interprets the ordinance in a way that disagree to that end clarifying the ordinance will help staff and achieve your ends. Your ordinance needs clarification. Please elaborate the and agendize the item criteria that should be used to interpret the sentence, use of city funds for DEI should discontinue." Thank you.

Mayor Borowsky: Thank you very much that concludes non-agendized public comments.

MINUTES

[Time: 00:25:48]

And next, we move on for the approval of meeting minutes for Special Meeting January 28, 2025, Executive Session Minutes January 28, 2025 and Regular Meeting Minutes January 28th. Anyone have a motion for me.

Vice Mayor Dubauskas: So moved.

Councilman Graham: Second.

Mayor Borowsky: All those in favor of minutes approval, please indicate your vote. Thank you.

CONSENT AGENDA

[Time: 00:26:24]

Moving on to the Consent Agenda items. Next, we have Consent Agenda Items 1 through 14. I'm gonna ask if any members have any questions on any of the Consent Agenda Items and if so, a request you can also make a request to move any of the Consent Agenda items to the Regular Agenda, and I am going to ask that Item number 7 be removed. Does anyone have any actually actually I do have questions on that and then I will ask. Before I do that, Councilwoman McAllen.

Councilwoman McAllen: Thank you, Mayor. Actually, I was gonna ask that Item number 7 be removed also. So, thank you.

Mayor Borowsky: So, my question for Consent Agenda Item number 7, do we have anyone here who can give a presentation on this item?

Interim City Manager Greg Caton: Yes, Mayor we do.

Mayor Borowsky: If not, I would prefer to move it to the next Regular Agenda item.

Greg Caton: Madam Mayor, members of Council, it's entirely up to your preference.

Mayor Borowsky: I'm inclined to move that, make it a motion to move that off the Consent Agenda to a future meeting. Anyone want to second?

Councilwoman McAllen: Second.

CONSENT AGENDA - ITEM 7

[Time: 00:26:50]

Mayor Borowsky: So, at this time, before we approve the Consent Agenda items, I would like to have a vote on moving Item number 7 to a future meeting and removing it from the Consent Agenda.

Interim City Manager Greg Caton: Madam Mayor? Oh, I'm sorry. I have to hit this request to speak.

Mayor Borowsky: Go right ahead.

Greg Caton: Thank you, Madam Mayor, I apologize for the interruption. We are just getting word we may have some contractual dates where we're running up to that time frame. If it t pleases the Mayor and Council if we maybe can just take this item up a little bit later while we do research over the next 30 minutes to understand that time frame.

Mayor Borowsky: Yeah, that sounds good. So, with that, let's remove that from the Consent Agenda. Let's take a vote on that one since there's been a second on that. And I don't think we need a vote.

Councilman Graham: No vote.

Mayor Borowsky: Thank you, Councilman Graham. Did you want to speak?

Councilman Graham: Yes, please.

Mayor Borowsky: Okay, go ahead.

CONSENT AGENDA – ITEM 13

[Time: 00:28:55]

Councilman Graham: I wanted to ask a question about a Consent Agenda Item without pulling it from

the Consent Agenda.

Mayor Borowsky: Sure.

Councilman Graham: Item number 13, this would be for Kevin Rose, Interim Water Resources Executive Director. There he is. So, I don't favor to withdraw in from the Consent Agenda, but Mr. Rose, if you could just mention we're raising rates, is this for can you just for the body public who are we raising rates on and is the rate of increase how does the rate of increase compare to recent history? Thank you.

[Time: 00:29:34]

Interim Water Resources Executive Director Kevin Rose: Thank you, Councilman Graham, Mayor, Vice Mayor and Council. What we will be requesting tonight is for notice the intent to start the process to raise water and sewer rates. We are looking to raise water rates 4.5% and sewer rates by 6%. That's been in line with past practice, within 3 to 5% that we have been raising the water and sewer.

Councilman Graham: And I don't know if you heard my other question. But on whom are we raising rates?

Kevin Rose: This would be for general customers, the residents and the commercial businesses.

Councilman Graham: All ratepayers.

Kevin Rose: Yes.

Councilman Graham: I know recently we have been withholding rates on people who use the lowest amount of water and we have a tiered water structure. Is this a flat increase or how would you characterize this type of rate increase. Thank you.

Kevin Rose: Councilman Graham, we will do a base rate increase based on the water meter which would affect the sewer because we base the sewer on 90% of your water usage in three months.

Councilman Graham: And you feel it's absolutely essential to raise rates at 4.5% for this year for the financial health of the enterprise fund?

Kevin Rose: Councilman Graham, Vice Mayor and Council, yes, I do believe we need to do this.

Councilman Graham: Thank you.

Mayor Borowsky: Thank you, very much. At this time, I would like to open it up for public comment. There's one individual who has indicated a desire to speak and that is Bryan Scott, and this is on the Consent Agenda items.

PUBLIC COMMENT - ITEM 12

[Time: 00:31:10]

Bryan Scott: Hi there, Mayor and Council. Good evening. Bryan Scott, resident. I'm here to voice my concerns regarding the Persian New Year's Festival funding request under Consent Agenda Item number 12. I'm troubled by several issues. That raised serious questions about the events eligibility, first, the event does not meet the requirement event development guidelines. One the stipulations for receiving funding is that the event must span at least two consecutive days. However, the event lists three nonconsecutive day and the media kits lists March 1st, one day.

Second, the festival appears to be requesting funding for the fourth year which exceeds the maximum three-year funding limit, outlined in the guideline. Another key issue is the funding guidelines requires the event to be open to the general public but tickets are being sold to this event. Is the funding being used to cover venue cost and make the event free to the public? This ambiguity makes it difficult to understand how taxpayer dollars are being allocated.

The funding requests of \$40,125 also seems unclear in the breakdown of the number leads to concerns about transparency. The event says it draws 15,000 annually, however, the civic center newly enlarged capacity is 7,500, funding based upon exaggerated attendance seems ripe for abuse.

Finally, the event is supposed to contribute positively to the city's brand and image, however, I have observed Iranian activists using the city events and beautiful Scottsdale landmarks as backdrops for protests involving dramatic displays such as laying on the ground with fake blood or waving Iranian flags. I am concerned that the headlines are also Iranian activists. The comedian headliner for this event is very political. His views are on many websites. He makes it a point to be an activist. Quote, "if you look at what is going on with the MAGA right, they want less democracy and to impose their ideologies and religion on this country" unquote. This rhetoric raises questions whether this is a political platform.

What troubles me even more is despite these evident concerned, five city employees have signed off on this funding and I'm disappointed that this proposal is moving forward without proper scrutiny, especially when appears there's significant discrepancies in the event's compliance guidelines. It's critical we ensure that taxpayer money is being used responsibly and that we are not inadvertently supporting events that don't align with the city's standards or objectives. Thank you.

Mayor Borowsky: Thank you very much, Mr. Scott. Appreciate that. Seeing no more requests to speak on public comment, and no additional requests to speak from Councilmembers, I will now entertain for a motion for approval Consent Items, 1 through 14 with the exception of Item 7.

Councilwoman McAllen: So moved.

Councilwoman Whitehead: Second.

Mayor Borowsky: All those in favor, please record your vote. I can go back. Okay. Thank you. That Consent Agenda items are approved as stated.

REGULAR AGENDA – ITEM 15

[Time: 00:35:12]

Now, we move on to the Regular Agenda, Item number 15 City Council will take action on each item on the Regular Agenda. Please note that Item number 16 the roundabout at Scottsdale Road and Dynamite was removed at the request of staff.

Regular Agenda Item 15 is a presentation and discussion on the reconsideration of the Development Review Board's December 12, 2024 decision, which approves a site plan for a previously approved application, 46-DR-2022 for a new mixed use development for 12 dwelling units and 1,564 square feet of commercial floor area on a .21-acre site with downtown retail specialty type one Downtown overlay zoning. Presenting this evening on this topic is Greg Bloemberg, Principal Planner for our Planning Department and there you go, Greg. Go ahead.

[Time: 00:36:06]

Principal Planner Greg Bloemberg: Thank you, Mayor Borowsky, Councilmembers. Again, Greg Bloemberg, Principal Planner, Current Planning here to give you a staff presentation on this item. It will be followed by an applicant presentation. So, the site is located just south of Fifth Avenue on the east side of Marshall Way, surrounded by other commercial and residential businesses.

So, I want to give you a little timeline on this, back in June of '23, the original proposal by the applicant on a single parcel was approved under 46-DR-2022, with a vote of 6-0. In August of '24, the property owner approached the city about modifying that proposal to include the parcel to the south. And the building design of that proposal was very similar to the previous approval. And then on December 12th of '24, the Development Review Board approved that case, 46-DR-2022 with a vote of 5-1 and then on January 14th as you already know of this year, City Council initiated a review of the DRB decision.

So, there were some concerns raised at the January 14, 2025 City Council hearing that I would like to go through real quick, just to summarize. One was the appropriateness of residential in this area of Old Town. I will go into more detail in the memo that you have in front of you. I'm just trying to summarize a little bit on these slides, but the existing zoning allows for residential at this location. And land use and zoning are not considerations when it comes to a Development Review Board case.

Another concern raised was residential density. Again, the existing zoning allows up to 50 acres on this site. The actual density that got approved was 40 dwelling units per acre and, again, density is not a consideration for Development Review Board cases.

Another concern raised was the effect of the project on parking for the surrounding businesses. I will

note that the on-street parking is public, and time restricted to three hours. And none the on-street parking is for exclusive use by any specific property or business. Another issue raised was maneuverability in the alley for on-site parking. I will note that the site design and circulation were approved by Transportation Engineering. Additional right-of-way was dedicated, as required by code, and there are other projects in Old Town that are approved and constructed with very similar conditions to this project.

And just for clarification on that maneuverability issue, I know it's a major issue of concern, I just wanted to quote the section of ordinance that deals with the design of parking, and I will read it directly into the record. The minimum layout dimension established in table 9.01.6 (a) and (d) should apply to all off-street parking with the exception that parking access by an alley should require a minimum of 10 feet from the back of the spaces to the center line which this project actually does meet.

Another concern raised was balconies over the right-of-way. I would like to clarify that the balconies do terminate at the property line. The only thing that does encroach into the right-of-way is a shade element over the sidewalk and then there was also a concern about the condition of the existing driveway at the alley. I will note that the previous approval, 46-DR-2022 includes a stipulation that that driveway is to be upgraded to current ADA standards.

[Time: 00:40:26]

So, the previously approved site plan was at the top of this slide, and it was a single parcel. There was parking approved at that time in 2022, when it was ultimately approved. And the alley is 16 feet and they gave us a 2-foot dedication for a total half width of 10 feet which is required by code. They came back with the design at the bottom of the slide that incorporates the parcel to the south. Additional parking was added, but, again, the alley itself did not change, and it's 16 feet and there's a 2-foot dedication on both alleys on the east side and on the north side.

As far as the building design itself, the previously approved elevations are on the left of this slide. You can see it's a very narrow building that was approved back in 2022, and the revised application showing the additional parcel being added. The design itself was very similar but there were changes zero lot line treatments as part of the second proposal, but it ultimately received approval.

Just to clarify the step back situation. There is a concern about massing on the Street. There are encroachments allowed into that step back. The step back line that is required is at this location, and it begins 30 feet above the setback line and goes from a 1:1 ratio, to the top of the building and the balconies and canopies are allowed encroach into that step back 7 feet. It basically confirms that the design does meet the ordinance in terms of massing and step backs. Again, the only thing that's encroaching beyond the property line is the cover for the sidewalk. That concludes staff's presentation. I will turn it over to the applicant for their presentation and then staff will be available for any questions you may have.

Mayor Borowsky: Thank you very much. And speaking on behalf of applicant. Is Lauren Proper Potter.

[Time: 00:42:45]

Lauren Proper Potter with Huellmantel & Affiliates: I remembered to lower the mic this time, since I'm a little shorter than some of the people that speak up here. For the record my name is Lauren Proper Potter, P.O. Box 1833, Tempe, Arizona 85280. And I'm here tonight on behalf of the property owner of the Marshall Living case.

Greg did a great job of walking through the history of the case. I will briefly touch on some stuff, but I know there are some concerns that have been raised. So, in the interest of time, I think what I will do tonight is focus just on those issues. To the extent that any of you would like to address something that I skipped over, I'm happy to go back and discuss those things in greater detail. Just to clarify the request, it's a modification to a previously approved Development Review case. So that was 46-DR-2022, that was approved unanimously about a year and a half ago. I think you are all familiar with the site, but, again, it's just south of Fifth Avenue, and Marshall Way on the east side of the Street here. It's a pretty small parcel. It's actually two parcels here. You can see there's an interesting building on one of the parcels and then a vacant can dirt lot that is adjacent.

So, a few of the things that are up for discussion, the guiding documents in the area. Some of the things not nor consideration which I think Greg touched on density and height, and some of the land use issues that were previously raised. There are a ton of development review criteria that your code sets forth. Again, these are items that I think are have been already discussed in your staff report. I'm happy to get into each and every one of them in as much detail as you like, but I'm limited by time and many of these concerns haven't been raised. To the extent that anyone wants to discuss any of these, please let me know and I'm happy to walk through them with you all.

But to discuss the prior approval. So, it was a substantially similar building to what's being proposed today in terms the skin. We have still four stories, 48 feet, a very similar amount of ground floor retail, 1,329 square feet, there was dwelling units above the so the retail is on the ground floor. It's a vertical mixed-use building. The building previously was constructed right on the property line, after that 2-foot alley dedication and there were seven parking spaces required, six physical spaces were provided on site and then one additional credit for a parking space was received for four secured bicycle parking spaces.

So, here's I'm a visual person. So, I always like to include images for you all to see here. I have highlighted that 2-foot alley dedication and then you can see the access to those parking spaces previously was directly off of the alley. So that will come up as we discuss how we think that this amendment is a big improvement to what was already approved here. This is the design of the building. You can see the materials here. These are essentially the same materials that are again before you for this amendment to the case. We have some landscape plans. Here's a rendering of what the prior approval looked like here. You can see it sits right on the alley way. And this is what we are proposing to do today. So, my client was able to acquire the vacant parcel next door. These are 30-foot wide parcels. After the alley dedication, 28 feet wide. It's very challenging infill site to work, but it's a very unique street with a lot of small parcels like this, and so we had a unique opportunity to acquire that piece and provide an improved version of the plan and so that's what you see here today. So essentially what's

happened, the building just kind of got scaled and it was spread over into that other lot that you see substantially the same materials and design.

You can see where we drew some inspiration from the surrounding area. So, this is one of the properties that's directly on west side of Marshall Way. Some similar materials we have awnings featuring aluminum, metal cladding, accents, brick construction, here's another building that's just across the street from us on the west side of Marshall. You can see that this is a two-story billing building. It's pretty contemporary in style. That second story you see it's predominantly featuring aluminum. A lot of glazing on this building and then you some see consistency with the brick construction at the ground level. Another building as you walk a little farther south on Marshall Way, this is the same side of the Street on the development on the east side. Again, pretty contemporary building. It's got again one of those triangular metal shade structures, similar to what we future at our site. And if you continue down the Marshall Way, you get down to the beautiful Museum of the West building and this is a great example of how you can have contemporary design that integrates well in this area. This is on Marshall Way, you can see there's neutral tone, lots of glazing and very nice look and very clean and then metal cladding accents on the building. So that's what you see reflected in this design.

[Time: 0048:07]

It was the design that was presented in 2023, and it's approved and before you this evening. At the same material board here, we got rid of there were some prickly pear pink and pretty yellow accent colors. Those were removed and we are featuring a more muted palate. These are the earth tones and neutral and that's what design guidelines for Old Town direct applicants to propose.

We have been working to develop the plan based on feedback from people. The prior plan it 17 required parking spaces. With had 16 physical parking spaces required here, a loading zone and then a credit for four bicycle spaces that were secured. What we're proposing here today, we actually modified a little bit of the ground floor here. So, we have removed one of the parking space requirements. Now we only require 16 parking spaces. We provide 16 parking spaces on this site. There's the additional loading zone space that can be used. We still provide the secured bicycle parking. So, on paper this site provides 18 vehicle parking spaces but it physically provides 16 spaces and 16 are required. So, this development meets all the required parking, without any special considerations.

Greg touched on the alley width, and I will briefly get into this because it's something that repeatedly came up in some of the conversations that I've had with you all. So, your design standards and policy manual sets for the widths that are required for alleys. It specifically says that for uses that abuts non-single family uses that alley width is 20 feet. The current width here is 16 feet. We will dedicate the additional 2 feet on our side, the other 2 feet some day comes from the adjacent property owners. I'm a visual person and I like to maybe exhibits. So here you can see the 16-foot alley that is in blue. The green portion is that dedication that's gonna happen, but one the major improvements that we made this time around with this amendment to the plan, is that we were able to set the building back an additional 2 feet.

So, there was an additional 2-foot building from this building to the next adjacent property owner here. This development has 12 feet to the nearest back of a parking space.

And regarding parking spaces. There's some confusion possibly about what is actually required here. This is not a zoning ordinance. Parking spaces that are accesses from an alley only require a minimum of 10 feet from the back of that parking space to the center line. This is an exhibit that the architect prepared for this case, that demonstrates where the center line of that alley is, and we'll provide 10 feet with that dedication, again, we're providing more than what is required. We are in excess the minimum requirement. We are providing 12 feet from the back of that parking space to the center line of that alley.

[Time: 00:51:16]

And then we just created an exhibit here that demonstrates just a mid-sized SUV turning radius exhibit at a 5-mile-per-hour speed. This is a standard engineering document here that demonstrates there aren't going to be any conflicts. No one will be driving on anyone else's parking spaces off of the alley.

I did want to I have a minute and 40 seconds. I promise I won't go over demonstrate a few adjacent conditions just in the immediate area with substandard alleys that have 90-degree angled parking, and I have not heard of any issues from any of these people. This is the property directly to the west of us on the west side of Marshall, 16-foot alley. You can see I have highlighted there's some 90-degree angled parking. This is directly to the east of our project. It's on an alley that we also abut. And 16-foot alley and multiple locations up and down, and directly adjacent, it's only 8 feet wide at one spot, there's parking located directly off of that alley, that does not meet the 10-foot requirement. But there's also a portion of that property that does provide parking that does comply with that 10-foot required backup.

So, we do provide a couple public benefits here with this amendment. We are willing to provide four new additional public parking spaces with this request. We exceed the building's setback requirements here. And we are also willing to agree to underground the power poles as part of this approval this evening. I'm again, I'm happy to walk back and discuss any of these items with you, but I think I will stop here with 20 seconds left.

Mayor Borowsky: Thank you very much.

Lauren Proper Potter: Thank you.

Mayor Borowsky: And now, we're going to move to public comments on this agenda item number 15 and I have six or seven speakers. Clerk Lane you said that two people donated time. I see on my sheet here Cynthia Simonson has donated to Mike March. March who is the second speaker who donated time to Mr. Schade.

Ben Lane: Thank you, Mayor, Dennis Floyd has donated to Dewey Schade.

Mayor Borowsky: I don't see him on my list.

Ben Lane: He signed up later.

Mayor Borowsky: I will call up the speakers in order. Dan Ishac, Jose Ramirez, Mike March, who has the donated time. Mike will have five minutes and then followed by Michael Mule.

[Time: 00:53:38]

Dan Ishac: Dan Ishac, address on record. I'm at a loss how the Littlefield's despite being in office for two decades do not understand the difference between the DRB, the Planning Commission and the City Council. Even worse, they apparently don't believe in private property rights. I'm not gonna point by point, highlighting the false statements or concerns that the Littlefield's have with regards to this project because city staff has succinctly responded to all of them. In their response, even a casual observer would conclude that it was gross misunderstanding of the project and zoning law. The most ridiculous claim made in the January meeting made by Ms. Littlefield is that this area is not meant for residential. Apparently, the Littlefield's need a refresher on what mixed use means. And it didn't stop them from voting for Museum Square, which is very close.

The second most ridiculous claim is that somehow one landowner has greater rights to public street parking than another. For those who didn't read the packet there's not a single aspect of the DRB submission that violates city laws also the false concerns raised by the Littlefield's are predominantly zoning matters over which the DRB has no purview. Further, the project did not receive any special zoning right exceptions. The project is within the allowed zoning with regard to height, setbacks, parking, access, et cetera.

Most importantly, this Council and residents need to understand that denying a project that complies with all standard zoning rules and guidelines is considered a taking, a diminishment in land value of private property. I refer you to ARS 12-1134, which is pretty black and white. These cases have been litigated so much that governments know not to do it. Moreover, the Goldwater Institute and other conservative organizations participate in these lawsuits that diminishment of land value violates one of the sacred tenants of conservatives, private property owners have rights. Rejecting this plan will expose the city to a lawsuit, in addition to our cost to defend it, a betting person would wager that the city would lose, thereby requiring payment of the damages including their legal costs and economic impact of the delay. Do not take my word for it. Go into Executive Session and ask our City Attorney what she thinks.

For a group that campaigned against reckless spending, voting against this plan is throwing money away. So instead of thumping your chest to say we went up against a developer which in this case is a small local business owner, use your heads and accept the plan. You can certainly suggest changes in landscape, but the Littlefield's laundry list is off limits.

Mayor Borowsky: Thank you. Jose Ramirez followed by Mike March.

Councilmember Kwasman: Madam Mayor, before we get started, may I have a point of order?

Mayor Borowsky: Point of order? What is it?

Councilmember Kwasman: For those in the audience, when they are speaking of the merits of a subject or not, I would like to remind people to speak through the chair of this Council and try to refrain if at all possible about singling out any single members of the Council and rather speaking to the agenda item at hand.

Mayor Borowsky: Thank you, Councilman Kwasman. Mr. Ramirez.

[Time: 00:57:29]

Jose Ramirez: Can someone turn on the projector, please? Thank you. My name is Jose Ramirez, my address is 7222 East Gainey Ranch Road in Scottsdale, Arizona, 85258. I'm here to express my concerns regarding the proposed Marshall Living project and its potential impact on the surrounding area, including my property located at 7777 East Fifth Avenue which is adjacent to the proposed project. While I support responsible development that enhances our community, I believe that the project as currently proposed presents significant challenges that must be addressed.

Number one, the alley width and parking accessibility. The current alley configuration, including the proposed dedication does not provide sufficient clearance for vehicles to safely maneuver in and out of the proposed 90-degree parking spaces. This inadequate space could create safety hazards, congestion and accessibility issues for both current businesses and future tenants. It's imperative that the project adequately accounts for proper clearance and vehicle movement to avoid long-term operational issues. This alley is used daily by delivery trucks, city trash, tenants and visitors.

Number two, the loading zone designation, a dedicated loading zone is critical to ensuring the smooth operation of surrounding businesses and its residents. The proposal suggests that the same space could be used to satisfy a one-bedroom unit's parking requirement which is highly impractical. If this shared use is allowed it would render it unusable for loading operations leading to congestion, delivery disruptions and further parking shortages. I strongly urge the Council to require a dedicated loading zone that's not compromised by residential parking requirements.

Number three step back requirements and building scale. The proposed building design appears to violate the step back requirements which exists to prevent structures from towering over their surroundings and to maintain an architecturally interesting streetscape. The intent is preserve the character and scale of Marshall Way. And allowing them to bypass these important deadlines is a concerning precedent. It should be adjusted to comply with these regulations.

Number four, construction mitigation measures. With a project of this size, it is essential that a construction mitigation plan sympathy in place to minimize the disruption to existing businesses, traffic, pedestrians, and accessibility in the area. Having the mitigation measures been outlined to address the

potential traffic blockages? These factors must be carefully considered.

In conclusion, the project is proposed being proposed is for highly visible and iconic location which is the gateway to the Fifth Avenue district, the Arts District and the South Bridge district. It represents the tallest building on Marshall Way in the Arts District at four stories and it's important and it's important that we consider the impact on the character and the pedestrian-friendly nature of the area. I strongly urge the City Council and Mayor to reconsideration the project in the current form and address these critical issues. Thank you so much.

Mayor Borowsky: Thank you very much. Mike March. Followed by Michael Mule. And Mike, you will have five minutes. Thank you.

[Time: 01:00:54]

Mike March: Good evening, Mayor. Good evening, Council. I would like to share a few graphics, if it's possible to have access to the camera. My name just for the record, my name is Mike March, I'm an architect here in Scottsdale. I have been practicing for over 30 years here in Arizona, and around and around the country. My office was for a long time very close to right across the street, actually from the subject property. So, I'm very familiar with the area and and the residents.

We were asked back in December to take a look at the proposed project and share any concerns which we did at the time, and I appreciate the Council hearing this a second time. Without getting into too much, I know we have heard about parking and parking requirements. This alley, as Jose spoke of, sees an awful lot of traffic, over 100 vehicles a day go down this alley. It's not just some small minor alley, but the section that I think everybody is talking about is the design standards, Section 906, design standards for public and private ingress and egress. Specifically, Section 9.106 (B), which which states established 9.106 (A) shall apply to all off Street with the exception a minimum of 10 feet. It doesn't say only 10 feet. What that means is the only exception to that is to provide 10 feet as opposed to private streets which are allowed to be much narrower.

An example of that, I have show here on-site drive parking. This is similar to like if you were in a restaurant or a supermarket or something like that, the drive aisles, as you can see, 45-degree parking, 55-degree parking, the center line of those drive aisles are closer than 10 feet. When it comes to an alley, the purpose of this is the alley, the purpose of this is to provide additional width. The 16-foot alley and 10-foot, you would need to move the parking over a little bit farther. And the reason we do this is somebody who drives a big truck, we are not blocking traffic or blocking all the vehicles going up and down through the area. It doesn't negate the fact that once you get the 10-foot, you can now have 90-degree parking or anything like that. It says you need to have a minimum of 10 feet to start your parking.

As you are parking, as you can see increases 65 degrees, 90 degrees, the maneuvering clearance required to get into that space increases as well. And this is consistent interpretation across all jurisdictions. City of Phoenix, for example, requires 26 feet if you are accessing a parking space from an

alley as opposed to 24 feet on a private area. So that's enough about the parking. I think we have all talked a lot about that right now.

Additional concerns that question we have had with this project that I haven't heard bring up at all. My wife was a firefighter. This is a four-story project. There's no access to the roof. The only place the fire department access can be is in Marshall Way, which is the narrowest side of the building. Currently the city of Scottsdale has adopted the 2021 Fire Code and a lot of the and the amendment to go with that. And part of that included in is representative or the recommended guidelines back in the appendix, which talk about access, apparatus access positions like, for example, aerial apparatus access, ladder trucks and things. This building right now at four story, and type 5B construction would be required to have a ladder access. Again, the only place you can put that is in Marshall Way.

So I think, you know, we have got a project exactly like this over in Mesa right now, where the way we were able to mitigate that was take the stairwells and at the back end of the property, raise them up so the fire department has the second means of egress, but that would blow height limitations and stuff. We have a lot of concerns about maneuverability, working in the alleys and fire department access in the alley and in in Marshall Way accessing the buildings. I appreciate your time tonight.

Mayor Borowsky: Thank you very much. Michael Mule.

[Time: 01:06:37]

Michael Mule: Mayor, Council persons. Thanks for having me. I'm here to speak in support of the Marshall Living project. I own a restaurant. We are working towards our 11th year in Old Town. What we have noticed the last several years is there has been a major draw north. So, the energy that used to rest right in Old Town when I was a kid has now gone north to places like the Scottsdale Corridor and Kierland, and I think the reason is because as part of those projects, residential infrastructure or density was a part of the project from square one. What better way to ensure people patronize your businesses than to build residents for them in close proximity. I think it's the one thing that Old Town seems to lack and we can't get past this us versus against them thing. Some of us want to modernize to some degree and some of us want to keep it an old western town. And I think both of those things can coexist.

You can have the character of Old Town, and still provide the amenities that people expect when they come to an upscale place like Scottsdale. I think the walkability aspect of Old Town is better than any place in the city and what better way to take advantage of that than to build residential infrastructure, to be able to work in Scottsdale and live in Scottsdale, particularly in Old Town, where you can walk or bike to work, come home, take your dog for a walk, patronize some of the restaurants and really enjoy all that Old Town up to has to offer. If you drive around Old Town, there's part of the Old Town that is in disrepair. There's no reason that a project like this that will enhance the overall aesthetic for the entire area. There's no way that this should go forward. There's 12 additional families and 12 additional people, that have visitors come into town. Those visitors are going to want to experience the art and the culture of Old Town. Those visitors will want to go to the restaurants and the bars. Those visitors will tell other people to come and visit Old Town Scottsdale.

I think that residential density is really the key to the success and the future of Old Town. As a business owner, I watched it get more and more difficult to make a profit. The economy is a factor right now for all of us, but as the energy has been drawn north out of Old Town, I think that we need to find a way to find a way to perpetuate the success that old town has always been known for. I think one of the ways to do that obviously is to allow for more creative residential projects like this project. Thank you very much for your time.

Mayor Borowsky: Thank you very much. Steve Johnson. And the last speaker I have on my list is Dewey Schade, who will speak next.

[Time: 01:09:40]

Steve Johnson: Before I get started, want to request the city invest in a better sound system for this place. So many important things are discussed and I couldn't hear a third of it. Maybe some sound baffles or something. But anyways, I have my building directly behind this proposed project and right next door to a building that the developer or the owner developed a few years ago. And so I have some concerns with that.

This building is gonna be about over building is gonna be about over twice the size of the last one that was built and my experience of going through the two years of construction for that building, the destruction that it did to my building and disruption to my business, I'm extremely concerned when something 2.5 times is built directly behind me. These drawings and things submitted to me there's a lot of vague inconsistencies in it and to blanket approve it, has a lot of concerns for me. They mentioned the utility poles were going to be moved. There's three utility poles on the plan and there are two other utility boxes that are not even mentioned on that plan. That affects four buildings and almost 20 tenants and what is involved with moving something like that? It's a huge cost for a single building and I don't want to get this thing out of the ground, built and then suddenly they don't have the funds to literally move all of that power. And how is how are the power lines, are they gonna come on to everybody's property and dig up their parking lots and stuff like that? There's a lot of unknowns with that.

The original plan was on one lot, and they are 30-foot wide lots and the original plan had a store front across that whole 30-foot lot. This new plan is now double the size. It's 60 feet, and the store front is pushed back and probably only about 20 feet of glass. So, it doesn't even fit in with the residential feel or, I'm sorry, the retail feel of the area that, you know, pretty much it's all storefronts on the lower level. So, this new proposal, even though it's twice as wide, it's 60 feet, it has considerably smaller store front presence that's pushed back and even a little harder to see.

And this I listened to everybody talk about the parking requirements and stuff like that. This actual property is at the intersection of two pretty busy alleyways and I think that has to be taken into consideration above and beyond of just what's written in the ordinance of how cars are parked. There's a big restaurant at the end. The intersection of this alley, there's constantly big trucks and I drive it every day, and there's tons of tourists. There's zero visibility when somebody is walking off that sidewalk into this alleyway and stuff. And none none of that is concerned and I think if we are getting

this major development here, critical issues like that could be addressed or should be addressed.
Thank you.

Mayor Borowsky: Thank you very much. And finally, Dewey Schade, you will have five minutes.

[Time: 01:13:16]

Dewey Schade: Good evening, Mayor. Madam Mayor and members of Council, I'm Dewey Schade and my Scottsdale address is of record. But for more than four decades, I have owned commercial properties on Fifth Avenue, and Marshall Way, including the lot adjoining this project not south, and also the center directly across the street to the west. This project, as it was presented to the Design Review Board in December and which is before you today, is fundamentally flawed. This project is out of character for this iconic location. The location is the Horse Fountain that's at the head of the Marshall Way and on. Brochures that go throughout the world advertising Scottsdale in general and the Old Town Fifth Avenue Marshall Way in particular. And the project also diminishes the ambience of this delightful neighborhood. But most significantly, the Council has received information this evening that this project, as proposed specifically violates the relevant provisions of the city's parking ordinance and as such, endangers public safety.

For these reasons, the Council's decision this evening should be to reverse the December 12th decision of the Design Review Board and to deny the project in its confusing and violative current status before you tonight.

There are three reasons which support a decision by the Council sitting tonight as a Design Review Board, that confirm the correct course of action is to reverse and to deny.

First, today's case, 46-DR-2022, Number 2 should never have been allowed as a revision to original case, number 46-DR-2022, which was approved in 2023 almost two and a half years ago. Today's proposal is 100% larger than the than the 2022 case, which involved only one lot. The present case, twice as large as the original, should not be permitted to carry forward the many flaws of the 2022 DRB case and to be to be ratified by the Council three years later.

Second, this project is a new build. Therefore, it must comply what all ordinance regulations this project does not. The current ordinance requires a 24-foot drive aisle from both alleys. This requirement cannot be disregarded and even worse, the City Council or the Design Review Board cannot, and it must not approve a project which will assuredly allow a trespass on a neighbor's property to maneuver into garages. Mr. Ramirez has told you about this and Mr. March has as well.

Third, in the event that the applicant may suggest any changes on the fly this evening, or proposed some quick stipulations, which no one has seen, and have not seen scrutiny, such a procedure should be viewed as unacceptable by the Council as you meet tonight as the Design Review Board.

Moreover, such a last-minute maneuver would be a tacit recognition that the project exists are as it

exists is flawed. For these reasons, I would respectively request that the Council, sitting tonight as the Design Review Board, reverse the December 12, 2024 DRB decision and deny this project. I want to thank you for the opportunity to present my comments.

Mayor Borowsky: Thank you very much. That concludes the public comments. I personally have some questions not from the applicant, but from Greg, I think, spoke on behalf of the city. Who is gonna talk about this?

Greg Bloemberg: Mayor Borowsky, I'm happy to answer any questions you might have.

Mayor Borowsky: So, I didn't see anyone else on the board yet but. So there was some conflicting information that we just heard. You advised that the project complied with all the as-right zoning and it was compliant with the parking requirements and setbacks and, et cetera, all of the ordinances we have in place, and we use to evaluate projects. And I just heard from a couple of speakers that that's not accurate so can you speak to that.

[Time: 01:19:03]

Greg Bloemberg: Sure, Mayor Borowsky and Council, we did a full review of this project from the design ordinance and design policy perspective. And one of the things that the parking ordinance allows is for the DRB, the Development Review Board is to approve parking space, sort of like a hybrid parking space, as a loading space, that still can be used by residents or guests for the project. So, the parking complies with the ordinance. In terms the step backs, again as I mentioned previously, there are encroachments permitted into that step backs. In the case specifically, the balconies and it covers over balconies. We did a thorough review of it from an ordinance and from a policy perspective and it meets all of those requirements.

Mayor Borowsky: Thank you. And I will give the applicant the same opportunity to speak to that if you wish.

Lauren Proper Potter: Thank you, Mayor Borowsky, I would like the opportunity to address that. We're in agreement with staff that this project complies with all the ordinance requirements. I think we have demonstrated an pulled from the code those things that are required from the design standard policy manual, and so the project is overparked. It's not only barely eking by. The project provides for more than enough car parking for the zoning ordinance. So, it's not even a close case and it's actually one of the only projects on the entire street that's gonna provide its own on-site parking.

Mayor Borowsky: Thank you. That concludes my questions on that topic. Councilman Graham.

Councilman Graham: These questions are for, I think these questions are probably for staff, probably Greg. Thank you, Madam Mayor. So, we are acting as a DRB Board, and we care about design and layout, as it relates to the surrounding see specially as it relates to the surrounding area, especially as it relates to the street. This is not just any intersection in Scottsdale. This intersection is exceptional. And it

does deserve, I believe it deserves the highest scrutiny allowed to the DRB Board. I guess this is for the applicant. The whole turning, turning radius, getting cars 90-degree angle parking spots. Did you consider developing a computer drafting simulation? I've seen those before, pretty common.

Lauren Proper Potter: Yes, Councilman Graham.

Councilman Graham: It's kind of, in addition to the massing and the encroachments and the parking, but that is kind of the crux of a lot of the disapprobation. Did you consider putting together a simulation like that?

Lauren Proper Potter: Yes, Councilman Graham. Not only did consider it, and we presented it this evening. If Will, our Oz over there could put my presentation back up, I'm happy to go back to that exhibit. It's obviously not a live simulation. It's a screen grab from an auto turn and that does demonstrate the parking, but I would like to show it to you, just to make it clear that we have done that. We have considered it.

Councilman Graham: Can you do it briefly?

[Time: 01:22:36]

Lauren Proper Potter: Absolutely, as soon as I get it up. That one wasn't me. Will, the presentation is gone. Thank you. So, it's an auto turn exhibit. It demonstrates those turning radiuses.

Councilman Graham: That's kind of more, I was hoping for more than a live simulation. It provides some degree of simulation. Obviously by being here, your client and the abutting neighbors have not come to complete agreement to the specifics of this project. In the application, somebody mentioned this to me, does the application provide for the units, the bedroom count? So, the number of one bedrooms, two bedrooms. Are there any two bedrooms in the...

Lauren Proper Potter: Councilman Graham, it is on the site plan. There are three two-bedroom units and nine one-bedroom units proposed.

Councilman Graham: Okay any okay. And the commenters Mr. Schade mentioned, this will probably be for Mr. Bloemberg mentioned or discussed 24 feet spacing. Do you remember that comment. I didn't quite catch what he meant by that. Maybe you could provide some light on that Mr. Bloemberg. Do you recall that comment?

Greg Bloemberg: Sure, Mayor Borowsky and Councilman Graham, there is a 24-foot width requirement, aisle width requirement for on-site parking when there's an on-site drive aisle. What the ordinance states though is for parking accessed off an alley, the minimum step back is 10 feet from the center line to the back of the spacing. Now, in order to get a 24-foot alley here, the property to the north would have to provide an additional dedication. So that their half is the same as the half this applicant has come up with or is dedicating. We can't ask that property owner to the north to make that dedication.

This has been done a few times in Old Town over the past years. So it's kind of a catch 22, yes, it's a narrower alley but it does meet the attempt of the code.

Councilman Graham: You said that's been done before but has it been done in an intersection as sensitive as this?

Greg Bloemberg: It has not been done at this particular location, there are areas in Old Town where it has been done.

Councilman Graham: I just, I think I have some doubts about massing at this point as I absorb everything as I study my packet, hearing resident input as it relates to the surrounding area, the design, the massing. Squeezing every possible inch. I have my doubts on this and thank you, Madam Mayor.

Mayor Borowsky: Thank you, Councilman Graham. And Councilwoman Whitehead.

[Time: 01:25:50]

Councilwoman Whitehead: Thank you, Mayor. We are here amongst some greats in terms the landowners in our Old Town. So, I will say that I've had some tours with both Steve and Jose and both of you have incredible projects. And we have a national in the Kiva. I know I'm going to say it wrong. But we have the oldest building in downtown Scottsdale, the owner of that building and it's now part of the National Historic Registry of Places. So, thank you. Beautiful. You know it's always hard when there's changes but a lot of the complaints that I'm hearing are in fact part of the zoning case which is massing and the heights. And so, these are not issues that we have any purview over.

But I do, the Mayor asked some of the questions I was going to ask, which is that do we meet the parking code. Because as we have strong private property rights. We can't ask the applicant to go above the code and we also can't ask a private property owner to do work on the property that that person doesn't own. I think Greg said it, we are in a catch-22 here, a catch-22 in terms of this width. But just to confirm the parking code we meet that and the last Council actually changed the parking code. And the setbacks we meet all required setbacks on this project?

Greg Bloemberg: Mayor Borowsky and Councilwoman Whitehead, they do.

Councilwoman Whitehead: And does this project meet the fire code?

Greg Bloemberg: Mayor Borowsky and Councilmembers, the fire department did review the project as part of the DR review, so as to my knowledge, yes, it does.

Councilwoman Whitehead: Okay. And on the width, you have an alley, just for the public, half the alley is owned by the responsibility of one owner and the other half is the responsibility of the property owner to the north. So how wide is the alley from the proposed building to center of the alley. A good question for the applicant.

Lauren Proper Potter: Absolutely, thank you Councilwoman Whitehead. Its current alley is 8 feet from the property line to the center line. We will be dedicating 2 additional feet that becomes city right-of-way. And so that's 10 feet. That's the complete alley width dedication and we set back the parking an additional 2 feet as a courtesy to the adjacent property owners so it's a better condition than what was approved in 2023.

Councilwoman Whitehead: So we have 12 feet?

Lauren Proper Potter: Correct to the center line.

Councilwoman Whitehead: And I realize. I don't know who the property owner to the north is. So I'm not beating them up or anything, but that the alley to the north, the other half, how wide is that?

Lauren Proper Potter: The property to the north has 8 feet from their property line to the center line.

Councilwoman Whitehead: Okay, so that really sums up the catch-22. So, if that property owner were to improve the property, they would be required to widen their portion of the alley; is that correct?

Lauren Proper Potter: So Councilwoman Whitehead, that's probably a better question for your staff, but my understanding, whenever we come in when my clients come in for requests for the city, every time we are on an alley that is 16 feet wide, 8 feet to the center line we get the same comment from your staff which is you are dedicating 2 feet of right-of-way as required. But I will let Greg speak to that.

Councilwoman Whitehead: Greg, can you speak to that.

[Time: 01:29:49]

Greg Bloemberg: Sure, Mayor Borowsky, Councilwoman Whitehead, the 2-foot dedication is a standard requirement for any project in Old Town. Like I mentioned before, we can't ask the property owner to the north to make a dedication to get the full alley width. And that's where the catch-22 comes in.

Councilwoman Whitehead: Okay understand and this, are there other concerns I heard, I guess some of you drive big trucks. So, would it not be a violation if a person parks a truck that takes up the alley space. Would that be a violation for the person driving it? You can't have somebody bring in a vehicle that doesn't fit, just like you have whatever airport there's small car parking and normal car parking. If you have somebody with a large truck and they park and block the alley is that a violation that they that they could get a ticket for?

Greg Bloemberg: Mayor Borowsky, Councilwoman Whitehead, before I answer that, you want to go back to the previous question. You asked the property to the north when it's developed or redeveloped, if that 2-foot be a requirement? Yes, we would. So, we would ask them to complete that alley. The design standards and policy manual does, again, allow for the board, if they feel it's appropriate, allow for a space on site a 10 by 18, to be designated as a loading zone. Now whether or not a bigger truck

could fit in there is probably doable, probably wouldn't. But technically no loading or unloading is supposed to occur in the alley.

Councilwoman Whitehead: Okay. And then the public parking spaces in the front, those are just additional. They are not required, the added parking spots on the street side?

Greg Bloemberg: Mayor Borowsky, Councilwoman Whitehead, that is correct.

Councilwoman Whitehead: Okay, and I had another I just wanted to touch on safety. Ms. Simonson often calls me because in a different part of downtown, trucks do have a very hard time getting into our alleys and sometimes they bang into her building. Is there anything that in the specific to this project but are there mirrors or something that we could add to the safety concerns I've heard about pedestrians and cars moving through this busy alley.

Greg Bloemberg: Mayor Borowsky and Councilwoman Whitehead, I would probably ask someone from transportation to respond to that if they are available.

Councilwoman Whitehead: Oh, here comes somebody. Thank you for being here.

[Time: 01:32:46]

Principal Traffic Engineer Sam Taylor: Good evening, Mayor Borowsky, Councilwoman Whitehead. I'm the Principal Traffic Engineer with the city of Scottsdale. I believe your question was are there any safety devices or something that we could do to help? Specifically, you mentioned mirrors. We don't do mirrors in the city of Scottsdale. They would create a maintenance issue for us. And yeah. We we can look at we have gotten requests for traffic calming related to speed concerns in alleyways before. That's about the most of what we do now.

Councilwoman Whitehead: Okay, there is one mirror at the Indian School Underpass where I bike to work. I find it helpful. It's not for cars. It's for bikes. Finally, construction mitigation plans. So back to you, Greg, is that a requirement and even if not, we've had such good luck with developers agreeing to figure out where their construction workers. That's a question for you. That's a problem, the construction mitigation really helps to eliminate, you know, disruption. Go ahead.

Greg Bloemberg: Yes, Mayor Borowsky, and Councilwoman Whitehead. Construction management, mitigation cannot be done in the alley, technically. If they want to get approval for the marshaling yard, in the right of way, they can get approval for that, with approval from the right-of-way manager and/or traffic engineering. But construction mitigation, they have to provide all of their storage on private property, and they have to tell us where all the employees, all the workers are going to be parking and that's part of the deal.

Councilwoman Whitehead: I realize this is a very smaller project. We have done this with the Kimsey and much larger projects to Mr. Johnson's point, do you have any plans on how you will minimize the impact

during construction?

Lauren Proper Potter: Yes, thank you Councilwoman Whitehead for the question. The property owner did do a development on Craftsman directly across the alley from the site. And so, he's experienced with this kind of challenging infill construction sites. It's no easy feat. But to Greg's point, there's requirements, there's no alley blockage and no storage of materials. It all happens on site. We are lucky we do have that space in front of the site right now, which is a driveway that will ultimately be removed. We're again willing to strike that for those public parking spaces. Some vehicles could be parked there, and I was there this weekend, and I saw cars parked there. So, I know that they will fit. To the extent that there might be small periods of time, a couple hours where a crane needs to come in and drop materials, I have spoken with the property owner. Those drops will occur, like, 5, 6:00 in the morning and so they will be designed so they are not disruptive to the adjacent businesses.

Councilwoman Whitehead: Okay, thank you and I do want to mention something about Hula's. I love the restaurant. I am a firm believer that if people live in Old Town, it will be a much more thriving place year-round and we want people heading into Hula's and all the other great establishments. So I will be supporting the project. Thank you.

Mayor Borowsky: Thank you, Vice Mayor Dubauskas.

[Time: 01:35:57]

Vice Mayor Dubauskas: Thank you. I wanted to ask a question about the parking allowance for the loading zone. You said it's allowed. Is it required to be considered in the numbers or is it permissible?

Greg Bloemberg: Mayor Borowsky, Vice Mayor Dubauskas, are you talking about the option to have an on-site space designated as the loading zone?

Vice Mayor Dubauskas: Yes, the loading zone in the back of the building that is being counted as one of the parking spaces. Is it a loading zone or is it a parking space?

Greg Bloemberg: Mayor Borowsky and Councilmember Dubauskas, like I mentioned before, when it's not being used for loading, it can be a residential parking space but it's the Development Review Board that ultimately approves the use of a parking space for loading and unloading.

Vice Mayor Dubauskas: Okay. So we are not required to consider that to be a parking space because it is a loading zone?

Greg Bloemberg: Mayor Borowsky and Councilwoman Dubauskas, that's more of an they can consider that.

City Attorney Sherry Scott: Mayor and Vice Mayor, yes you would not be required to allow that. It's my understanding that it is discretionary with the DRB. This is on appeal. The Council is setting as DRB and

so it would be discretionary.

Vice Mayor Dubauskas: Thank you.

Lauren Prospect Potter: And if I may, just to be clear, Vice Mayor Dubauskas we have revised the plan so we don't need the loading space to be counted as a vehicular parking space to meet the parking requirements if that addresses your concern.

Vice Mayor Dubauskas: So, my question came from three two-bedroom units and that means parking spaces, 9 two-bedroom units means 15 total and I count 14 here.

Lauren Proper Potter: I'm sure Will will help me bring up my presentation. But there's 16 on-site parking spaces. But I'm a show and not tell kind of girl. Yes, we will pull that up. How do I make this thing go back? If you can help me get to the presentation. Vice Mayor Dubauskas I'll show you where those will be. We have 16 dedicated vehicular parking spaces without that loading zone space. Oh, now we have gone way too far.

Greg Bloemberg: Councilwoman Dubauskas, I don't know if you are aware, but there are some tandem spaces proposed on the site plan, and those are allowed now. They didn't used to be but now they are allowed. They have to be designated those two spaces have to be designated to the same unit but tandem parking is now allowed and I'm not sure if you were aware that that was part of the plan.

Vice Mayor Dubauskas: Yes, thank you.

[Time: 01:39:15]

Lauren Proper Potter: And any minute, I will have a site plan to show you. I might have something to put on the Elmo if it's too hard to get the plan back. Thank you so much for doing that. So, let's see if I can get you, here we go. Take a look at this plan here and if you start with that A.D.A. van space that's on the far-left side of the screen for you, you will see those are all numbered. 14, those are in the garage spaces, and then if you go to the eastern portion of the alley, there's two additional spaces located off of that alley as well. And then those are right next to that loading zone spot.

Vice Mayor Dubauskas: Thank you.

Mayor Borowsky: Thank you, Councilwoman Littlefield.

Councilwoman Littlefield: Thank you, Mayor. I'm going to keep this pretty short. Most of my questions and comments and concerns have been addressed already. I have two papers that I want to pass out to everyone. So, everybody take a copy and I will move it the other direction also.

Sherry Scott: Mayor, if I may, Sherry Scott, from the legal department. I just want to make sure that there's a copy for the applicant.

Councilwoman Littlefield: Yes there is.

Councilman Graham: She wants to show it on the elmo. Should I just bring it up? Okay.

Councilwoman Littlefield: Okay. Here's. Next one. I have two. Hand that one to them too. And I think have an extra copy for Greg too.

Councilman Graham: Just two?

[Time: 01:42:07]

Councilwoman Littlefield: These sheets that I have passed out are current counts using this alley on a daily basis. This is two days' worth of traffic, a Friday and a Monday. We did not put a weekend on because we thought that that would be a different number. And we tried to make it different parts of the days so that you can see what all is going on in this alley right now.

This is a very busy area and it needs to remain clear for the traffic needed by the current businesses and residents. Garbage trucks, police, fire, parking by employees, owners, guests, as well as the people just walking through to other locations. From the sheets I presented to you all, that will be a daily issue of some magnitude. What are your plans and how are you going to handle these needs? This is a lot of traffic through this alley. These are not long-term considerations, but they are practical requirements for you to look at and to study. This alley also is a thoroughfare for safety vehicles, police, fire, ambulance service, all of those things come through there as public service. You have trucks on one day you had 75 cars, 15 trucks and 97 pedestrians. That's a lot of traffic for one day through an alley.

The next day, you had 75 cars oh, the next day you had 53 cars, 4 trucks and 39 pedestrians. So it makes a huge concern for me as to how are you going to handle this kind of traffic through this alley on a regular everyday basis? We purposefully did not use a weekend because we figured it would be more on a weekend. So, I have a concern for that. How are we going to reschedule this kind of traffic on a daily basis?

Long-term considerations, I'm glad to see that the balconies were removed, and I thank you for doing that. I appreciate it. I have been told and I agree that on-street parking is allowed for three hours at a time and that the members and visitors and users of these apartments can be parking on the street parking for three hours at a time, like anyone else. This is public parking and usable by all members of the public.

However, the purpose of on-street parking is not to house apartment dwellers. That is supposed to be available within the development. On-street parking in front of businesses is to provide parking for the customers of the businesses that it is in front of. It is currently pretty much fully used as such. To take that parking away to use it for residents and residential friends who are taking with them, it will hurt the current businesses in the area.

But I also have another question. If apartment renters park their cars there, they too will have to come out and move their cars every three hours or they will get a parking ticket, just like anybody else. So, is that going to be, you know, part of the stipulations or information that you give residents if they plan on using this open parking? And will they get ticketed if they don't move? Does this go on into the night? That's something I'm not sure if does. The apartment complex has to get up every three hours and move it. That would be really weird, and it would be very not friendly to your residents.

I was told that land use is not DRB considerations. We can't consider that tonight, but some has to be a little bit considered because they interact with the construction process and with you, and how you build this project. I would like to know your time frame. How long will it take and when will it end? Because that affects the area and the neighborhoods in the surrounding areas.

A couple of minor details as we can calculate all of this. First, you can't use the docking spaces as parking spaces. I think that is separate under law, if I am not mistaken. You can tell me on that, Sherry.

Sherry Scott: Mayor and Councilwoman Littlefield, that is correct. They have clarified that the Council does not have to use the loading space as a parking space. However, the applicant has clarified that they have met the parking requirement without that space.

Councilwoman Littlefield: Also, the final alley width must be about 24 feet. That's the current code, if I'm not mistaken. Today, I believe the width requirement is 16. Is that going to be increased?

[Time: 01:47:33]

Lauren Proper Potter: Thank you, Councilmember. I think I wrote all of that town. I would love to address each of those points. You will have to forgive me if I miss something, but I think I got them all. I think we'll just walk back because those are the ones freshest in my mind.

Councilwoman Littlefield: Okay.

Lauren Proper Potter: You had just mentioned that the final alley width needs to be 24 feet. We talked about that ad nauseam tonight, but it bears repeating for the sake of clarity. I don't want there to be any confusion or any lack of understanding about what the requirement is. Your design standard and policy manual guideline requirement is that alleys are 20 feet when you are adjacent to anything other than a single-family use. So, the 24-foot alley width is not a requirement here. There's some of the members of the opposition have mentioned 24 feet with respect to drive aisles, however, that is an erroneous reading of the code. That is with respect to on-site circulation.

Again, the zoning ordinance is pretty explicitly clear on this. It's only 10 feet required at the center line, but, again, we did bump our building back two feet with this amendment. So, the extent that there might have been concerns about the prior approval, which by the way, has building permits in and they could get pulled within the next couple of months and we could build that building and it would be closer to the neighbor, this building presents a better circumstance for them. So, I hope that kind of

answers your question about the alley widths.

You asked about construction timing and stuff. I would love to assume that that means that you will be supporting the request tonight. Obviously, we can't do anything unless this is approved. And so if we receive approval this evening we've already got building permits in the final review for the first building. We will have to make some amendments, and we will prepare them immediately. I would expect them to be filed within the next three to six months and review time is obviously dependent upon your staff, probably takes about a year to get those permits in hand, and then shovels would go in the ground immediately, typical time frames are about 18 months to two years for a project like this. So that's what I would expect the timeline to look like. It's obviously dependent on a ton of factors, and but I think that's a good ballpark for you to consider.

[Time: 01:49:54]

You had mentioned on street parking a number of times. I do want to be clear, we are not taking away any on-street parking. There's actually no on street parking right now in front ever these two parcels. What we have done with our slightly tweaked site plan that we presented this evening is that we are proposing to add four. So, we will give the city those four public parking spaces, they have nothing to do with our project. We don't intend to park in them. They are fair game for any member of the public in that area, and they will be for the benefit of all in that area. We again provide ample parking on site. We don't need the loading zone to be counted towards our parking requirement, but it's practically, it's an open space during any time that anyone is loading. There's an extra space there and we provide the bicycle parking which is a by right credit parking which is one vehicular parking space.

Again, we don't need it. We are good on parking. We don't need public parking. We don't intend to use those spaces and guests of the apartment would be allowed to use those just as any guests of any of the adjacent businesses would be permitted to have their guests park in those spaces with the parameters of the city's site line. So, if people are parked for more than 3 hours, and parking enforcement is out that day, they are probably getting a ticket. But we are not relying on those spaces, but we are proposing to add to your public parking supply and it's something we are willing to do with approval this evening.

Okay, still walking back here. This the counts here, obviously, I haven't seen these before. They sound like big numbers. This is great, by the way. I love to see big pedestrian numbers like this. This is awesome for your Old Town merchants, for many of the small businesses who wrote in support of this project, who are desperate for residents who don't want to rely on tourists, they are begging you to bring residents downtown. That's cars off of the street. Sure, it's more pedestrians. But that is exactly what these businesses are asking for. They want more people walking around. And so I think that the alley width today, it's 16 feet. So, this traffic exists today, whether or not we do anything here. We will make that alley wider. We can't control who walks through the alley. I was on the site over the weekend. Maybe you guys counted me. I drove it and I walked everything. I did not feel unsafe. I'm not aware of any incidents of vehicles versus pedestrian accidents in this area. I ran into somebody I go to Pilates with in Scottsdale out there walking around, it was an incredibly busy day. Everything seemed very safe and there were lots of people out walking around. I think this is a good

thing for the area. I'm encouraged to see these numbers. We would love to see less vehicles in the alleys and part of that is bringing residents to downtown like what we are proposing to do.

Every car in their parking garage out here is a car that's not driving around Old Town, going to Hula's and going to Schmooze, they can walk there from their residences. So having people close to where they can get their hair cut, get their facials and all of those amenities that are prevalent in this area will help with these numbers. We want big pedestrian numbers in this area. That's exactly what your merchants are asking for. I think I hit everything.

[Time: 01:53:10]

Councilwoman Littlefield: Well, I hope you don't close that off then. I think this is going to be a very big, difficult situation for those folks. I don't like the site plan per se. The plan has 12 units on one-fifth of an acre. That's dense. Substandard driveway access, it sounds like you have done a lot of work on that, and I appreciate it, but I'm still not convinced that that's what this project needs. The applicant stated that they also own the building at 4238 Craftsman Court, which has similar alley conditions. However, the Craftsman Court, the applicant inset the garage 6 feet. And that was beyond the 2-foot dedication at the 16-foot alley to achieve 24-foot driveways. Do we need to have a similar inset to comply?

Lauren Proper Potter: Councilwoman Littlefield, I appreciate the question. We think that we have designed a great project here and the site is very tight. That's at the rear of the Craftsman property. So, there's a lot more give there. We have moved the building quite a way from the same alley that you are discussing. This is on the opposite side on the west side. We provided way more than 6 feet on that side. In terms of how much give we have on the side of this parcel that's only, you know, it was 30 feet and then 28, and now we're talking about 6 more feet, I just don't think it's possible. We have access requirements for fire circulation to your points about safety. We have internal evacuation routes that we had to keep that have to have egress points to your sidewalks on Marshall Way. There's internal circulations, stairwells, there's just too much to fit. Infill is tough. It makes for a tight site. There's not 6 feet to give here, but we have provided more than adequate distance for those parking spaces.

Councilwoman Littlefield: Thank you.

Lauren Proper Potter: Thank you.

Mayor Borowsky: Thank you. Councilwoman McAllen.

Councilwoman McAllen: Thank you, Mayor. Lauren, question. The picture that I believe it was Jose showed, was the alley as is, and you are going to have 2 feet off of that. So it will be larger than it appeared in that picture, correct?

Lauren Proper Potter: Councilwoman McAllen, yes, thank you so much for asking. I was like, yeah, exactly we will make this better. Yes, 2 feet and then two more feet.

Councilwoman McAllen: Thank you. I am new to the Council, just a whole month and a half. I have done a lot, I would say, extensive amounts of research on this project. I have met with both parties. I have met with other people downtown. I have actually walked it four times. And looking at where the city is, and that everything has been met, according to our guidelines, I move that we accept Marshall Living as presented this evening.

[Time: 01:56:13]

Greg Bloemberg: Mayor Borowsky and Councilwoman McAllen, would that include the applicant's revised site plan?

Councilwoman McAllen: Yes.

Greg Bloemberg: I want to make sure that's included in the motion.

Councilwoman Whitehead: I will second the motion.

Mayor Borowsky: Thank you very much. Before I call for a vote, I just want to make one final comment. Based on all the information we have before us the applicant has checked every single box within the city's framework for approval on this project. And it looks like a nice project, and I think you have done a good job answering all the questions.

Now, if there's a question or there's an issue, and I hear the property owners as well about the way that the framework that the city has for applicants and new builds of this kind or remodels, et cetera, if that's the problem, you know, it's we can't put that on the backs of property owners that are complying with absolutely every criteria that we have before them to achieve. And so that's a tough one.

It's very important to me, as you know, during when I ran for office of Mayor, to engage in a serious look at the revitalization of Old Town, that's a big, big goal. And to me, it appears we need to take a hard look at what the criteria is, how we can improve it, and not just be reactive and not that we're being reactive here. But, you know, maybe it's time to get the downtown revitalization group back together and do some real serious improvements that are meaningful for not only new applications but for existing property owners to protect them as well.

So, with that, I'm gonna call for the vote, there is a motion, all those in favors, please indicate. And there you go, it passes 4-3. Thank you very much, everyone, that spoke. And the applicant. Thank you. Thanks very much.

CITIZEN PETITIONS

Mayor Borowsky: All right, we have no citizen petitions that I'm aware of.

REGULAR AGENDA - ITEM 7

And therefore, we are going to move right into our last item, which is a Work Study Session, and that item is Work Study Session. Oh, I almost forgot, item number 7 are we still, do we still need to do that still?

Greg Caton: Yes, Madam Mayor, if I ,thank you for your patience as we conducted research and found our procurement timeline allows for, has some flexibility and would be able to accommodate a continuance if that's the pleasure of Council.

Mayor Borowsky: That's my preference. And so, we had a motion, I guess I will just make a motion to move item number 7, which involves, in my opinion, some pretty complicated issues and I would prefer to see that on a future agenda after we can take that offline and get briefed on it more, more completely. So, I will make the motion to of move item number 7, agenda item 7 to a future the next Regular Council Meeting.

Councilwoman McAllen: Second.

Mayor Borowsky: All those in favor of putting item number 7 on the next Regular Agenda, please indicate your vote. Thank you.

[Time: 02:00:16]

WORK STUDY SESSION – QUARTERLY FINANCIAL UPDATE

Alright, now we can move right into the Work Study Session, which will involve a quarterly financial and Capital Improvement Plan, a CIP update. Backing up to the consent or the item we just moved, City Manager Caton, I would love to see or whomever is going to be in charge of that if we could get a briefing on that prior to and if needed, you know, meetings with Council.

Greg Caton: Yes, certainly.

Mayor Borowsky: Thank you. And I'm not sure who is presenting on this. Oh, I see our City Treasurer is sitting there ready to go.

City Treasurer Sonia Andrews: Thank you, Mayor. Thank you, Council. Next slide.

So, this our quarterly financial update, and our quarterly financial update primarily focuses on our general fund, the general fund is the city's largest operating fund. And in this quarterly update, we provide budget to actual results for revenues as well as our major expenditures. Next slide.

Before I start on the budget and actual, I wanted to talk about our sales tax revenues. Sales tax is the largest source of revenues in the general fund, and over the last few years, we have had some very

significant fluctuations in our sales tax revenues, mainly because of the economic stimulus, the pandemic spending, inflation, strong job growth and wage growth, so as you can see, previous to the pandemic, our average annual year-over-year growth is around 4 to 4.5% and with the last few years, with the pandemic, it's skyrocketed in terms of our year-over-year sales tax revenue growth. Next slide.

Sorry, can you go back one slide? There was supposed to be a new revised version with a new slide in there, that was sent to the Kiva. So, this shows the actual sales tax revenues in the general fund from 2015 through 2020, fiscal year 2020, as you can see the annual growth compound annual growth from 2015 to 2020 is a little over 4%, and then with the pandemic spending, it went up 11% in 2021. 21% in 2022, 9.7% in 2023, and then it dropped a little bit in 2024. So, with this kind of fluctuation, it's really hard for us to know how much this increase is a new base in our sales tax revenues versus a bubble in the sales tax revenues. But because of this fluctuation, what we did for fiscal year '25, this fiscal year is we projected a no growth in our sales tax because we don't know whether it's gonna go down, it's gonna go up, it's really hard to predict. So next slide.

[Time: 02:03:36]

So, what you will see as the as I show you the budget and actual, our budget assumed no growth in sales tax for fiscal year '25, partly because of the negative year-over-year growth in fiscal year '24 and also because economists were projecting a slowdown in consumer spending. However, consumer spending to date has outpaced our expectations due to continued job and wage growth. Next slide.

So, overall, our total general fund revenues are 2% above budget. The sales tax revenue growth were 9% above budget. That's offset by the property tax reduction because of the Qasimyar lawsuit. I can go on into that a little bit more later. On the expenditure side, general fund expenditure budget with a 3% positive variance, mostly due to salary and vacancy savings as well as timing the expenditures. As we do these quarterly updates, we try to budget our expenditures and revenues by month and by quarter and so it results in a lot of timing differences sometimes. Next slide.

This slide shows you all the sales tax revenues by category. As you can see, our retail sales tax has the very first line up there, is 17% positive variance. Primarily, due to retail stores doing better than expected and also a one-time large audit payment that we received as well. The other categories that have significant positive budget variances are automotive category, and that is also due to a new dealership in town, and also a large one-time audit payment, and the other one is the hotel/motel category at 12% positive variance, and that's also due to a new hotel and also some timing differences as well. So overall, our sales tax revenues in the general fund has come in about 9% over budget, or 7.9 million positive variance over our budget. Next slide.

And this just shows you a chart of our 12-month rolling average for our local sales tax revenues. As you can see, it's been pretty flat over the last fiscal year the last fiscal year '24 and as well as fiscal year '25. Next slide.

On to our total sources in the general fund, aside from the local sales tax, we also have state shared

revenues and charges for services, and other revenues as well. For charges for services, a lot of that is timing differences in terms of when we budgeted an expected to receive the revenues versus when we actually receive the revenues. There's also some increases in our revenue projections from, for example, fire insurance premiums, the city receives an allocation of fire insurance premiums tax and that has significantly increased over the last year due to the increase in fire insurance. On the other where it's a negative 10%, that is primarily due to our property tax revenues coming in lower because of the Qasimyar lawsuit judgment from the county, and just real quickly, the county received a judgment for over collecting property taxes from residential properties converting to rentals. So as a result of the judgment, they have been refunding property taxes this fiscal year. We did not know about this judgment and refund until the budget was put together for the for this fiscal year. Next slide.

And finally, this is a slide on the general fund uses. As you can see, the total uses came in about 3% under budget and the other category is primarily timing differences where we budget to take something in December, but it hasn't occurred yet. So, a lot of that is timing differences. And next slide.

And this is the uses by division, and you can see for the some of the larger variances for the charter officers, Mayor and Council charter officer, that is due to vacancies. So primarily vacancies like in the City Auditor's Office, the City Auditor vacancy and the City Treasurer's office, we don't have a Budget Director or Accounting Manager for most of the year. So those are the savings from the vacancies. And then the negative variance in administrative services is due to allocation of citywide software costs that occurred earlier than expected and then also in the public works and vacancy savings and some custodial invoices that we haven't received yet. We thought we would receive it, but we haven't received it yet and the payments haven't been made yet. With that, I can answer any questions you might have.

Mayor Borowsky: Thank you, Sonia. Vice Mayor Dubauskas.

[Time: 02:08:55]

Vice Mayor Dubauskas: Thank you Sonia. I just had a question comparing the charts on page 4 and page 7. So, on page 4 we say the general fund sales tax revenue is down 3.4% growth in fiscal year 2024, but then when I look at page 7, fiscal year '24 actual is 91.6, fiscal year '25 actuals 98.7. So can you help me understand how to read those two charts together because it looks like down but then it looks like up.

Sonia Andrews: Yes, thank you so much for that question, Mayor and Council. The chart four, can you oh, actually, we have to put it back on that. So sorry. The minus 3.4% is the change from the prior year. So that is the drop from fiscal year '23. So fiscal year '23, we collected or recognized \$199 million in sales tax revenue and fiscal year '24 it came in at 193. So that the decrease from fiscal year '23 to '24 is minus 3.4%. And now if we go to slide 7 sorry, slide six on yours. Yes. This is the 8% is the change from fiscal year '25 and fiscal year 24.

Vice Mayor Dubauskas: 23 to 24 and 24 to 25.

Sonia Andrews: Yes.

Vice Mayor Dubauskas: Got it, thank you.

Mayor Borowsky: Thank you. Councilman Graham.

[Time: 02:10:49]

Councilman Graham: Thank you, Madam Mayor. Sonia, the, I look at our receipts and they look strong. They are going up. Change from prior year, 8%, 9% above budget; is that correct? Year-to-date.

Sonia Andrews: Through December 2024, yes.

Councilman Graham: Have you looked at our neighboring cities, their financial statements and what their revenue growth is? How we're doing compared to our valley comparators?

Sonia Andrews: We can certainly do that, yes. For the ones that produce and publish their financial statements, monthly financials online, we can certainly do that.

Councilman Graham: I would be interested to know because it seems like, you know, I'm glad business is booming, and it would be interesting to see a comparison for our peers but, no obligation on that. Thank you. Thank you, Madam Mayor.

Mayor Borowsky: Thank you. I don't see any other questions. And that completes the presentation. Thank you very much and with that, we are at the end of the our agenda, and motion to adjourn.

Councilwoman Whitehead: So moved.

Ben Lane: Mayor, I apologize. We still have a presentation on the CIP side.

Mayor Borowsky: Oh, my mistake. Who is doing that?

WORK STUDY SESSION – CAPITAL IMPROVEMENT PLAN UPDATE

Principal Project Manager Roger Berna: Mayor and Council, for the record, my name is Roger Berna, I'm the Principal Project Manager for construction with capital project management and we have seven projects in our capital improvement plan update for you this quarter, and we'll just go ahead and roll the video.

Mayor Borowsky: Thank you very much. Councilman Graham.

Councilman Graham: Real quickly. I like the production. Very nice cinematography and music. And maybe in the future, and I asked this, before but budget to actuals for these projects for residents just to

have readily easy access to. We don't have to go over, it but if it could be in the publicly available packet. I think it would be beneficial. Thank you, Mayor.

Mayor Borowsky: Thank you. And do you have anything to add?

Roger Berna: No, I'm just available for questions.

Mayor Borowsky: Thank you. I don't see any other requests to speak. So, thank you very much. That was very nice. And now that concludes our agenda, and I will entertain a motion to adjourn.

Vice Mayor Dubauskas: So moved.

Councilwoman Whitehead: Second.

Mayor Borowsky: All those in favor say aye.

ADJOURNMENT

[Time: 02:19:23]