ORDINANCE NO. 4971

AN ORDINANCE AMENDING SECTION 11-2-2 OF THE MESA CITY CODE, CHANGING THE ZONING OF CERTAIN PROPERTY DESCRIBED IN ZONING CASE Z10-01, LOCATED AT 2639 EAST BROADWAY, SUITE 105 ADOPTING AN OFFICIAL SUPPLEMENTARY ZONING MAP ESTABLISHING A COUNCIL USE PERMIT AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

Section 1: That Section 11-2-2 of the Mesa City Code is hereby amended by adopting the Official Supplementary Zoning Map for Zoning Case (Z10-01), signed by the Mayor and City Clerk, which accompanies and is annexed to this ordinance and declared a part hereof.

Section 2: The Official Supplementary Zoning Map annexed hereto is adopted subject to compliance with the following conditions:

1. Compliance with the basic development as described in the project narrative and plan of operation submitted.
2. The approval of this Council Use Permit is limited to operation under a Continuation of a Series 12 Liquor License, or "Grill" License, and is therefore restricted to a minimum of 30% of its gross revenue being derived from the sale of food.
3. Compliance with all City development codes and regulations.
4. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).

Section 3: PENALTY.

CIVIL PENALTIES:

Upon finding that a person is responsible for a civil violation of this Title, the Civil Hearing Officer shall impose a civil sanction of not less than fifty dollars ($50.00) nor more than five hundred dollars ($500.00) for each violation. In determining the appropriate sanction the Civil Hearing Officer may assess against the responsible party the City's personnel, mailing, and other costs incurred in investigating and hearing the case, not to exceed a maximum of five hundred dollars ($500.00).

EACH DAY SEPARATE VIOLATION:

Each day in which a violation of this Title continues, or the failure to perform any act or duty required by this Title or by the Civil Hearing Officer continues, shall constitute a separate civil offense.

HABITUAL OFFENDER:

A. A person who commits a violation of this Title after previously having been found responsible for committing three (3) or more civil violations of this Title within a twenty-four (24) month period – whether by admission, by payment of the fine, by default, or by judgment after hearing – shall be guilty of a criminal misdemeanor. The Mesa City Prosecutor is authorized to file a criminal misdemeanor complaint in the Mesa City Court against habitual offenders. For purposes of

calculating the twenty-four (24) month period under this Subsection, the dates of the commission of the offenses are the determining factor.

B. Upon conviction of a violation of this Section, the Court may impose a sentence of incarceration not to exceed six (6) months in jail; or a fine not to exceed two thousand five hundred dollars ($2,500.00), exclusive of penalty assessments prescribed by law; or both such fine and imprisonment. The Court shall order a person who has been convicted of a violation of this Section to pay a fine of not less than five hundred dollars ($500.00) for each count upon which a conviction has been obtained. A judge shall not grant probation to or suspend any part or all of the imposition or execution of a sentence required by this Subsection except on the condition that the person pay the mandatory minimum fines as provided in this paragraph.

C. Every action or proceeding under this Section shall be commenced and prosecuted in accordance with the laws of the State of Arizona relating to criminal misdemeanors and the Arizona Rules of Criminal Procedure.

PASSED AND ADOPTED by the City Council of the City of Mesa, Maricopa County, Arizona, this 22nd day of February, 2010.

APPROVED:

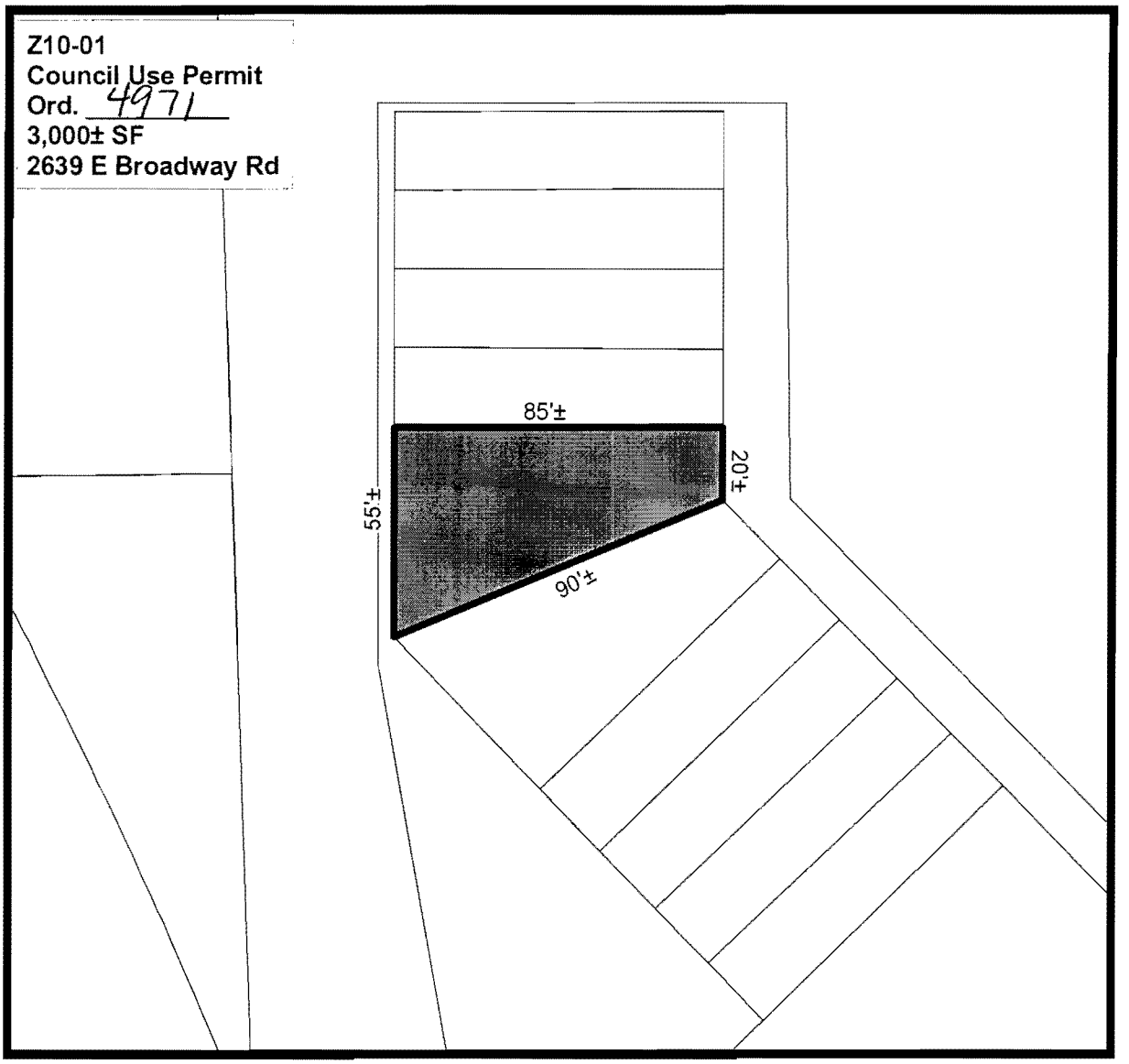
Mayor

CITY OF MESA CORPORATE SEAL MARICOPA COUNTY, AZ.

ATTEST:

City Clerk

OFFICIAL SUPPLEMENTARY ZONING MAP
AMENDING THE CITY OF MESA ZONING MAP



Please be advised that the attached zoning changes were approved by the Mesa City Council on Feb. 22, 2010 by Ordinance # 4971. If you have any questions concerning these changes, contact the City of Mesa Planning Division at 480-644-2385.

MAYOR

ATTEST: CITY CLERK

DATE: 2-22-10

CITY OF MESA CORPORATE SEAL MARICOPA COUNTY, AZ.