



CITY OF PALO ALTO CITY COUNCIL TRANSCRIPT

Special Meeting
December 7, 2015

The City Council of the City of Palo Alto met on this date in the Council Chambers at 5:06 P.M.

Present: Berman, DuBois, Filseth, Holman, Kniss, Scharff, Schmid, Wolbach

Absent: Burt

Study Session

1. Prescreening of a Proposed Hotel Development at 744-750 San Antonio Road.

Mayor Holman: Our first item on this evening's agenda is a Study Session regarding a prescreening of a proposed hotel development at 744 to 750 San Antonio Road. Does Staff have a presentation, please?

Hillary Gitelman, Planning and Community Environment Director: We do. Thank you, Mayor Holman and Council Members. I'm Hillary Gitelman, the Planning Director. I'm joined by Sheldon Ah Sing who's managing this project for Staff. This evening's prescreening is really akin to a Study Session, so we're not expecting any action this evening. Staff does have a real high-level overview, and then the applicant wants to present some material as well, and then we'll hear from the public before we hear Council comments and questions. The site is on San Antonio Road. It's currently occupied by a number of low-scale buildings. The application was formally submitted in July, and environmental review is currently underway. No action can be taken on this project until that environmental review process is complete; although, the ARB can meet to discuss compatibility during the environmental review process. There's a site plan in the presentation. I'm sure the applicant will show more detailed drawings here, but it's a real high-level hotel proposal that's before you this evening. Our environmental analysis is going to focus mostly on traffic and on historic resources. Neither one of the analyses are complete at this point, but we do think that there is a building on the site that technically qualifies as a historical resource, which will mean that we have to prepare an Environmental Impact Report. This is a picture of that building. Again, our analysis is not complete. As you see,

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similar to the project that the Council looked at at 2555 Park Boulevard, this is a mid-century building. It's just over 50 years. We think it qualifies under the definition of a historical resource in CEQA. As I mentioned concurrent with environmental review, the ARB will be examining compatibility and Code compliance. At this point, no Code exceptions are requested for the proposal. The proposal is on a site that was considered a housing site, actually potentially two sites, in the Housing Element. This is an issue that we've already looked at. We don't think that this is a fatal inconsistency, because the proposal is consistent with the City's zoning for the area, and also the Housing Element included an overage. If you recall, we identified sites for more than just the bare minimum. We have the potential to compensate for any housing sites that are developed for other uses without having to designate new or additional sites. In terms of next steps, this evening we're hoping you'll hear from the applicant, then from members of the public who are here, and then we would appreciate any and I'm sure the applicant would appreciate any Council comments or questions. We, again, do not expect a decision this evening. After tonight's hearing, I expect we will continue with the environmental review process. The project may be the subject of one or more hearings at the Architectural Review Board. With that, I'll turn it over to the applicant. Sheldon and I are here to answer questions as we go along. Thank you.

Mayor Holman: Thank you. If you would introduce yourself when you get to the mike. You will have ten minutes.

Mont Williamson, T2 Hospitality Heritage: Honorable Mayor and Council Members, my name is Mont Williamson. I am President and COO of T2 Hospitality. Thank you for having us here tonight for this session. A lot of the information in my presentation may be duplicative with what the Staff just went through, so I'll go pretty quick. If you want to ask questions as I go, fine. I assume I'll just keep going until I'm done. If you look at the project, what I want to talk about is first why we're doing this, why we brought this property, why we want to do it in this location, why we thought it was a positive thing for the City. Talk a little bit about what's on the site right now, which Hillary went through. Show you what the existing site looks like. Talk a little bit about what we're proposing, the actual facility itself and a little bit about does the project align with Palo Alto's vision for land use, the actual zoning that's currently allowed, and then show a bit about what the project will look like when it's done, what we have done to respond to ARB's preliminary comments that we have already received. A little bit of a view of what this project looks like from the Greenhouse community across the street, and then what we have accomplished so far in our interaction with the City. I'll just take you through those really quick. First, if you look at where the project's at, it's on San Antonio Boulevard

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between Middlefield and Charleston. It's right across the road from the nursery. If you look at why we want to put the hotel in this location and if you look at what's on this screen, you will see that the hotel is very close to North Bayshore, Mountain View, where in the hotel industry that's the greatest demand needed for hotel guests, coming from that location. If you look at where the supply of hotel units are in Palo Alto, they are all along El Camino and a bit north on the 101. There are no hotels within 2 miles of the North Bayshore area. Our thought in putting the hotel at this location was to provide hotel rooms to people close to where the demand was and prevent them from having to drive all the way through Palo Alto toward the current supply of hotels exists. We thought this was a bright idea to put it close to the demand. We thought it would be a traffic reducer as far as a practical application and would be well received by the community. That was the thought. If you look at the site itself, it is 2 acres. We assembled two different parcels. There is one commercial office building and a couple of small light industrial facilities. This is what they look like, one of the facilities Hillary showed earlier in her presentation. You can see the two small light industrial buildings. Now, the project itself, what we're proposing. It's two separate hotel structures, two different brands. They are in kind of hockey-stick formation so that along San Antonio all you see is the architecture of the buildings. You don't all the hotel activities behind. It's intended and designed to be a good land use and something pleasing for the community. All the traffic, all the noise, all the waste is all at the very back of the property. 90 percent of the parking is underground, so you don't see it. It's designed to be a very pleasant experience. The building materials, by the way, we listened to the ARB early session where they said if the project was to be approved, they would really want high quality materials. We've gone out of our way to provide a skin on this building that is far above the brand standards. It's all a cementitious steel troweled stone system with a lot of glass and metal panel and simulated wood. It should be architecturally a very pleasing facility. If you look at how the project aligns with Palo Alto's vision for land use, it is requiring no variances at all. It is within the land use and the zoning 100 percent. It's slightly under, about 10 percent under, the allowed FAR. It's slightly shorter. It complies in every way, so we are asking for no variances. It also provides a positive experience for the City. If you look at our preliminary TIA traffic studies that we've done, it impacts according to the traffic consultant traffic by approximately 1 percent. One thing I want to bring up and let the Council know tonight is that our offer to the community as kind of an understanding that traffic is a problem everywhere in the City, is that we would like to offer to fund a signal optimization program that the City's been planning for San Antonio Boulevard that, according to the traffic consultants, will improve signal wait times by anywhere between 8 and 40 percent. We know we have a very slight impact; it's less than what the City considers significant in

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any way. We want to offer to do something very positive for the community. If you look at the revenue to be produced for the City, the TOT calculations at a very conservative income basis provide about 14 percent of the City's TOT budget, about \$3 1/2 million a year into perpetuity. The Housing Element I think Hillary captured correctly. We understand it does use property that could be used for housing, but it's a very small quantity of housing and not the optimum site according to the City Staff that put the Housing Element together. The actual building, what it will look like. To reiterate what I said before about the exterior skin and materials, we have gone out of our way to upgrade the project far above what the brands require. We think it'll be very, very pleasing.

Mayor Holman: Mr. Williamson ...

Mr. Williamson: Yes.

Mayor Holman: I'm stopping the clock here just for a second, because you've put at the dais here a multi, multipage presentation. You have 10 minutes, and you've used 6 1/2 of that. I just wanted to let you know where you are in the time.

Mr. Williamson: To go faster.

Mayor Holman: If you want to focus on the big picture aspects of the project, that might be to your best advantage.

Mr. Williamson: Understood.

Mayor Holman: Thank you.

Mr. Williamson: From Greenhouse, if you take a look at this image that was prepared, the actual trees that are in place were measured on the site. You can see that the trees that screen the property are larger and taller than the buildings themselves. This is just a timeline to show what we have accomplished. We bought this property about 18 months ago, and we had a timeline with the brands that said we had to have the project approved by the end of 2015 or we could lose the brands. Now, we're nowhere close to that. It's been an interesting process. We are trying to communicate our best. We're here tonight specifically to try to get positive feedback from the City on whether the City would like to see this project. Hopefully, we'll be able to renegotiate with the brands and get additional time to get this project approved. What we would like to accomplish tonight, if you'd look at the questions that we're posing to the Council, it is pretty simple. Is this a good use for the site? Is there any major concern regarding the context, the traffic, the Housing Element, historical evaluation? We'd like to understand

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from the Council what the concerns might be, so we can address them. Because it conforms completely and due to the significant benefit it provides, would you encourage this project to move forward as efficiently as possible? Now, that does conclude my thoughts. I have additional slides at the end that are really more detailed if people would like to ask me to come back and explain something about TOT. Thank you.

Mayor Holman: Thank you. At this time, Council Members can ask questions or we can go to the public. I think Staff indicated going to the public next, which is fine by me if it is with colleagues. I have six speaker cards. You'll each have three minutes. When you hear your name, if you would come to the front, that would help us move through these. Warren Storkman to be followed by Nancy Martin.

Warren Storkman: My name is Warrant Storkman. I'm a resident down close to San Antonio Road. My homes were built in the conventional type. In fact, we were there watching Eichler pushing the cows out of the way as he came down to San Antonio way back in 1954. My concern is that over the years when Oregon Avenue came in, we divided the cities. Of course, we're aware that we have the haves and have nots. I'm the have not, because I'm south of Oregon Avenue. It seems like that part of the town gets the worst end of all the deals that come up. I'm not sure if all the members on the Council are from the northern part or not. You're in the south? You're the only one. We have a hard time trying to protect ourselves. We did finally get a City Councilman to get elected and protect us for a few years back in the '60s. This project is great for some other place, but not now. The traffic on San Antonio—I hope you guys go down there. I don't care practically what time of day you go, it's bumper to bumper. It's cars in mass array. You folks use San Antonio as a dumping ground for all the heavy trucks to come up and down that road, so that's another problem. Not to mention what Mountain View is doing; they're building a four-story garage to accommodate four stories worth of automobiles. Dumping that onto it is going to be awesome. I just you wanted to be aware that this idea of the traffic won't be a problem, it will be. We've already got a massive amount of cars and it's steadily. It's absolutely ridiculous what we have to go through to get ourselves on the road. Thank you.

Mayor Holman: Thank you, Mr. Storkman. Nancy Martin to be followed by Joan Beitzs-Zuri. Again, if you hear your name called, if you would come to the front, it really would help us. If Joan could move forward. Thank you.

Nancy Martin: Good evening. I'm Nancy Martin, I live at Greenhouse. I have several concerns that I'm sure will be reiterated by my fellow speakers. One is traffic. It's absolute gridlock. We're very concerned about

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emergency vehicles as well as the everyday traffic. As you all know, there are more accidents on 101 than there have been in past years. Getting emergency vehicles to just 101 is really a problem. Parking. We're concerned about parking. There is conflicting information in what Mr. Williamson said. His write-up says 90 percent of parking will be underground. He just said all. Which is it? Where are employees going to park? We're very concerned about the truck hauling once construction, if it were to start, started. We have a new San Antonio Road. Are we going to ruin it again so quickly with all these trucks? Neighborhoods. This does not fit in our neighborhood. Five-story buildings in a one and two-story neighborhood? Sorry, it just doesn't go aesthetically or with the plans. The City has recently supported the one story in Greer neighborhoods. Why not keep the limit in our neighborhood as well? I'm very concerned about water. Going down two levels for parking, what about groundwater? This is already a huge issue in the City as all this water is being pumped out into the streets. I acknowledge the right of investors to do a project. Is there not a compromise here? Could we not, say, go to three stories instead of five stories? I'm willing compromise with them if they are willing to do something to respect our neighborhood, our health, our right. I also want to point out two wrong statements that Mr. Williamson made or at least it's in conflict with what is in his brochure here. First of all, he keeps referring to it as San Antonio Boulevard. You'd think if you're developing a project, he could at least get the street address right. It's San Antonio Road. He talked about the project being right across from the nursery. Sorry, it's right across from Greenhouse II. I would question what other misstatements has the developer made and put into this program. Thank you very much for your consideration.

Mayor Holman: Thank you. Joan Beitzs-Zuri to be followed by Lu Lu.

Joan Beitzs-Zuri: I live in the Greenhouse I. The height, bland design, scale and the mass of the five-story, 297 rooms, two hotels with only a single access in the middle of an already congested San Antonio Road are simply not compatible with our neighborhood. At the ARB new business meeting on June 4, 2015, neighbors who would be impacted by this project voiced the reasons for our concerns and opposition to having these two hotels built. At the end of this meeting, the recommendation that the ARB made to Marriott was to make major changes in the design, scale, height and mass of this project in order to be more compatible with the neighborhood. They suggested perhaps a terrace look with three stories in the front, with the fourth behind that, and the fifth behind that. The ARB agreed that the current architectural design is an eyesore. It's just simply really ugly. Also, since this would be the first hotel in a mostly residential neighborhood, Marriott was asked to make this an extremely pleasant design that would be

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more readily acceptable. We think that having balconies in front of the rooms would be a nice feature. Marriott at that time said they got it. They heard what was being asked of them, and they would go back to the drawing room. Months later, Marriott had a neighborhood follow-up meeting. We attended. We were all disappointed to find that their changes consisted of lowering the number of rooms from 301 to 297. They are still five stories high with ugly architecture. It's just an unpleasant architecture in our neighborhood. It's not a fit. We are trying to reach some sort of compromise but found Marriott is not willing to budge. For this and the many other reasons that have been expressed here and in writing, we ask that the Council not approve this project. Thank you.

Mayor Holman: Thank you. Lu Lu to be followed by Joan Larrabee.

Lu Lu: Hi. My name is Lu. I'm a resident in Greenhouse II. I got my Master's in transportation from MIT, and my concentration was on traffic congestion. I wanted to give some comment based on a traffic study poster the developer showed us a while ago. In the poster they showed us, their assumptions and source of input data are not clear. The way they compute the numbers is unknown to us, especially the metrics they use to measure traffic impact is irrelevant to residents' interest which may lead to misleading conclusions. The only metrics that is of residents' interest is travel time. First of all, they claim that a hotel will improve Palo Alto's traffic conditions in general because they will replace the trips from Google campus area to north Palo Alto or to Sunnyvale area with shorter trips to San Antonio Road. They showed us some result with metrics called (inaudible) or something like that. That metrics is irrelevant and it does not reflect local impact to traffic in San Antonio Road. Also, the existing long trips may be longer, but it take variety of routes and distributed across different roads. Therefore, the traffic impact on each road is marginal. On the other hand, if we put all the traffic to San Antonio, the impact would be huge. Another point I want to address is their analysis they showed us a number of 1-point-something car per minute trip increase and they said it is small. Based on both empirical experience and traffic flow theory, if you add one more car per minute to free flow, it's no big deal. If you add one more car per minute to an already congested, gridlocked area, it's going to be a disaster. Again, their metrics is irrelevant. They don't show us any result of metrics that is of our interest, which the travel time increased from our complex to 101 or to El Camino. The third thing I want to raise is a proposal by the hotels to improve community traffic condition by optimizing signal won't have much impact during peak hours, because currently on peak hours on both direction there are already queues. You can't do anything by optimizing signal when there are queues, especially spill backs on both direction. Also, they mention something like shuttles and bike lanes that don't make much since

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to me neither, because the travelers will mostly drive because they won't take a shuttle to (inaudible) or to Mountain View downtown or to Palo Alto. Adding a bike lane will further reduce the capacity of the road which is already far from enough. As residents in the San Antonio area, the project is not desirable to me. That's all. Thank you.

Mayor Holman: Thank you. Joan Larrabee to be followed by Susie Mitchell.

Joan Larrabee: Good evening, Honorable Mayor and City Council Members. My name is Joan Larrabee. I've lived in the Palo Alto Greenhouse at 777 San Antonio Road for over 30 years. I have found it to be a very family-friendly neighborhood. The Greenhouse I has a 140 dwelling units; Greenhouse II has 79. We have a new library. We have a new community center. We still have Cubberley. We have the only YMCA in the City of Palo Alto, and it's open seven days a week from 6:00 in the morning, most nights 'til 10:00 at night. We have the Jewish Community Center which is open to everybody, again with preschool clear up and four or five different options for housing mainly for seniors. We have several neighborhood parks. Shoreline Park's right at the end of our street, walking distance. There's a gym at the JCC; a lot of members of Greenhouse I go over there. Many schools, private. There are two schools on San Antonio Road, one of them is from K to eighth graders, and the other one is from first grade through eighth grade. There are daycare centers along there and preschools. On the north side of San Antonio Road, there are 26 single-family homes, and there are some apartment buildings. On the south side, there is the Rosewalk which has 49 units of townhouses. San Antonio Village has 40 units of townhouses. Nearby we have Charleston Village which has 32 units of townhouses. These are all very pleasant places to live. I think we have all found where we live to be a very pleasant place. We can walk to Piazza grocery store; we can walk to the library. We have a lot of shopping up at Midtown Shopping Center. I did notice that on the developer's map all of the businesses that he said would send people to the hotels, those are not in Palo Alto so they would not be serving Palo Alto. They'd be serving other cities. I feel like it should be for housing so that people can live here who work here and not people who are transient and staying for a couple of days and going on. I'd like it to be for housing so that other people can enjoy the family friendly neighborhood that I have enjoyed for 33 years. I take the opportunity to ask everybody who's opposed to this project please stand up. Thank you for your attention.

Mayor Holman: Thank you. Our next speaker is Susie Mitchell, to be followed by Rita Vrhel, our final speaker.

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Susie Mitchell: Hi, my name is Susie Mitchell, a lifetime resident of Palo Alto. For the past ten years, I've been a homeowner at Greenhouse. My comments are with regard to traffic. Traffic is currently an extremely serious problem in both directions on San Antonio, Leghorn and Middlefield. Throughout the day and evening hours, those that need to travel on these streets experience significant traffic congestion, backups and many times there's gridlock. These hours are difficult to predict and quite negatively affect all of us who live and work in these areas. Should Marriott's proposal to build in the San Antonio location be approved, it's my opinion the existing traffic situation will be made much, much worse in all directions of the traffic. As we all know, the proposed hotels will have a single entrance and exit onto San Antonio. Prior to meeting with Marriott a while back, I came up with a list of vehicles that may use the single entrance and/or exit. Off the top of my head, a list impacting traffic to this already congested area is as follows: the 383 proposed parking spaces for guests, employees and valet services; taxis, limos, corporate buses and Uber drivers; U.S. mail, FedEx, UPS, DHL and other ground transportation vehicles will need to use this exit and entrance; food and beverage trucks for the food areas; cable, HVAC, pool, landscaping, painting, plumbing and other contractors on services not employed directly by the hotel; garbage and recycle trucks; emergency vehicles; special delivery services, florists and food not provided by the hotels. These are just examples. Furthermore, depending on the desired destination, hotel traffic will need to use Leghorn and Middlefield left-turn lanes to make U-turns or use the surrounding streets. The left-turn lane at Leghorn is the first light exiting the property eastbound, and it's necessary to go into the left-turn lane which only really accommodates, like, five to six cars. You have to cross the two lanes of the eastbound traffic to get into that lane. More importantly, this left-turn lane is the only way into the Greenhouse I or II eastbound on San Antonio. That's a problem in my opinion. That's just one of the many negative traffic scenarios, and time won't permit me to even address a handful of other ones. With this brief presentation, I'd respectfully request a different location be identified for the proposed Marriott hotels. This is just not the right spot. Thank you.

Mayor Holman: Thank you. Our final speaker on this item is Rita Vrhel.

Rita Vrhel: Hi. I live on Channing Avenue, so I don't live anywhere near this project. I do quite a bit of shopping down on San Antonio Road. Even now, I have to plan the trips according to different times, so that I don't run into school traffic, I don't run into commuter traffic. The times are limited. If you go back to the slide that was up there, I think the slide shows perfectly why this project is not appropriate for this neighborhood. This project towers over the nearby buildings which, if I remember, are one to two-story kind of—I don't want to say mom and pop, but pretty non-dense

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developments. There is no way in my mind that 300 guests, workers, delivery trucks, people that are coming to the guests on invitation, staff can have a 1 percent increase on the traffic on San Antonio Road. I just really cannot believe this. Again, everything is cumulative when it comes to traffic. I think we've seen over the last several years how traffic in this City seems to be underestimated, and then the residents pay a big price for it. I think the people have a right to develop this property. I'm not sure why it doesn't go into housing since we have a great need for that. This project in my mind is way too large and completely out of scale for this land. This City Council last week sent back the Shady Lane property based on the fact that it wasn't compatible with the university environment. I think this situation is the same here. Thank you very much.

Mayor Holman: Thank you. Did Staff hear anything they feel they want to respond to? Okay. For members of the public, we're not approving or disapproving any project tonight. This is a Study Session that's just preliminary review. You'll hear questions and comments tonight and no Motions. Council Member Wolbach. Questions and comments.

Council Member Wolbach: Just a couple of comments. Obviously as was just mentioned, we're not making any decisions tonight. I certainly came in here trying to keep an open mind, and I will continue to do that. I do understand that there is a great deal of demand for hotels in our region, including in Palo Alto. I do understand that there is a benefit to the City coffers that comes from our TOT. Thank you again to the voters for approving the update of that and increase of that last year. I acknowledge those realities and those potential benefits. I do think that I would prefer to see housing at this site. If it was just my choice, that would probably be where I would focus. I think that that's certainly the greatest need in Palo Alto right now. Obviously we've spent decades adding lots of jobs and not a lot of housing. I understand that that's not the applicant's responsibility, but if there's an opportunity to provide housing here rather than a hotel, I think that that's probably preferable. Also, I just want to point something out as a correction. On Slide Number 4 of the applicant's presentation, it shows a circle around the North Bayshore Research Park, which is in Mountain View. A lot of our challenges are regional, so I'm okay with providing that and showing that. It's interesting because it shows a 2-mile radius starting from kind of a southern entrance rather than a northern entrance to the Research Park. It says that there are no hotels in that 2-mile radius. There are two problems here. First, there are lots of hotels and motels in that radius in Mountain View. Secondly, if you moved the starting point, the center of that circle, up to the north end of the Research Park, almost all of the hotels shown here in Palo Alto would also be within a 2-mile radius. I'd recommend scratching or amending that slide before your next presentation

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if you want to increase the receptiveness of this Council and the credibility of your presentation.

Mayor Holman: Council Member Scharff.

Council Member Scharff: Thank you. A couple of things. First of all, I think we should talk a little bit about the housing issue. When we did the Housing Element, we specifically said these are bad sites for housing. Council was fairly unanimous on that. In fact, we talked about that. We put that in the Housing Element. The only reason we did it is we were facing a deadline from HCD, so we had to get our Housing Element approved. In fact, we've made a commitment to come back and look about rezoning those away from being housing sites, and putting in the housing basically either on California Avenue or Downtown, but somewhere closer to transit. There was a long discussion about that. I think we have to remember that. This isn't the fact that we're doing less housing sites. We were then thinking of moving these to places that were closer to transit, that would be more appropriate for housing. I think that's a real key point. The second key point I think we should make is that, yes, everything we build adds traffic, but we haven't zoned this property to be existing. We don't have a moratorium on development. We can't say to people, "You can't build anything." The question is what will the traffic impact be on this. I think the EIR will tell us this as we go through that process. What I'm hearing initially is that with the signalization optimization project, with the fact that hotels in my experience and what everyone says have very few peak hour trips which is really the issues on most traffic concerns, that a hotel typically causes less traffic than commercial development or housing, frankly. Therefore, we'd be better off with a hotel from a traffic standpoint than building housing or building some other commercial development. Obviously you want to see the traffic report; you want to understand that. If that is true—now if this causes big traffic issues, I would have issues with this project. The question to the developer at the end of the day is when you bring this forward to us, it has to show that it has very little impact or in fact hopefully will make the situation somewhat better. I also think we should focus a little bit on the fact that we as a Council have repeated over and over again that you have to meet Code. This project completely and fully meets Code. I think it would be a little disingenuous for us to be telling people that if you completely comply with all of our Code and everything, we still are not going to approve your project. I think we have to sort of make that decision. This does completely meet our Code, at least that's what everyone says. I do think obviously, as I said when we did the Shady Lane project, that I want to see the ARB endorse the project before I would support it. It still has to go through that ARB review and the ARB proposals. If the ARB supports it, it meets our Code, there are little to no traffic impacts, in fact with the

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signalization there may be some strong traffic improvements. I did want to come back and ask the developer at some point about his TDM program. He says that he's having a strong TDM program that could also reduce things 20 percent. I'd like him to explain what that is. Yes, the historical element. I wanted to address the historical element. I did go by and look at the building. I think I feel about that building the same way I feel about the Park Building which we stated that it can be torn down. It doesn't seem to me to be a building worth keeping. Obviously the EIR will go into the fact of whether or not there is any real historical significance to this. The questions have to be answered before I could say I would move forward on this project. Assuming the building has no real historical significance, it's not a very attractive building. It's hard to imagine wanting to keep that. Assuming the ARB comes up with a project which they fully endorse, which may or may not be what this project looks like, and given where we are with our Housing Element on this and given that this building completely meets Code and it's not asking for anything else, I could support this project. Do I have a few seconds to ask the developer about his TDM program?

Mayor Holman: Why don't we see if there are other questions at the end?
Council Member Berman.

Council Member Berman: Thank you very much. When we get to the end and we get time for questions for the developer, I'll also want to know a little bit about development disruptions that are anticipated if the project is approved and being developed, and what you guys have in mind for mitigating that. I agree with a lot of the comments that Council Member Scharff made. Clearly there are traffic concerns, and that's something that will have to be fleshed out. There are a lot of community concerns, and that's something that the applicant will have to work with the community to try to minimize as much as possible within your financial model if the project moves forward. There is things that I like. Council Member Scharff alluded to the fact there are no variances. It's 100 percent parked which we hear time and time again. To be honest, personally I think it's over-parked. I think a lot of people that are going to be commuting for business in this day and age with Uber and Lyft and other alternative modes of—I don't rent cars anymore when I go to cities for work or for play or vacation or whatever. No offense to Hertz and others, but it's more expensive and less convenient than using technology and using the sharing economy. Similar to Council Member Scharff, I'm curious to learn more about the TMA. I've heard that there was a little bit about it in the Staff Report. I think we can assume that a lot of folks that will be staying here will be going in and around the kind of Shoreline Business Park area which is right down the road. Obviously there's a lot of opportunity there, I think, for transportation demand management solutions. Council Member Scharff talked a little bit about and

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I think Council Member Schmid might expand upon the desire of Council to move housing sites off of San Antonio Road. It's something that we've been talking about for a long time. I want to make sure that we find alternative sites for it. Like Council Member Wolbach, I believe as strongly as anybody that we need more housing in Palo Alto. We've identified and determined that San Antonio is not a good place for it. Housing adds a lot of traffic also and at the worst times of day when people are leaving for work and coming home. That's something that we need to consider as well as school impacts and other things that have come up for this area. I like the fact that there are no meeting rooms or restaurants spaces or event spaces, nothing other than hotel rooms, so that we minimize the amount of traffic as possible. I'll want to hear more about development disruptions. I'm not minimizing the concerns of residents. I think that's something that's going to really have to be talked about and addressed and handled moving forward. I'm not at the point yet where I would say, "No, I outright reject this project." I'm far from the point of saying I'd approve it. There's a long process. I know the applicant said, "We're trying to move this forward as quickly as possible." I'm just going to give the applicant a very kind of simple feedback which is this is Palo Alto and we have the Palo Alto process and things don't happen super fast here. I hope there's some patience on the applicant's side as well. If we do this, we want to make sure we get it right. I see what my colleague was saying in regards to location of the radius for the hotel analysis. I think most folks would agree that Shoreline and 101 is kind of the center of the Shoreline Business District, so I see why you guys put it there. I don't think that's as big an error as others maybe do. I think clearly there's been a lot of office growth in that area, and hotel growth hasn't followed suit. I see why you guys think this is a good site, but I also hear the concerns of residents from across the street. I guess I'll make full disclosure even though he probably won't appreciate it. My little brother lives in the Greenhouse area. I don't know if it's Greenhouse I or Greenhouse II. It's important to keep in mind and really listen to and try to alleviate some of the concerns of the residents. Thanks.

Mayor Holman: Since tonight Council Member Kniss is Council Member DuBois and Council Member DuBois is Council Member Burt, Council Member Kniss, it's your turn.

Council Member Kniss: I think some of the points have already been mentioned, certainly traffic and is this the right location. I have two other questions when whomever comes back to talk with us again. There are a number of businesses that are located in that area right now. Some of them I happen to know pretty well. I want to know if you have talked to the people who are currently renting there. I'm so much surprised to not see anyone from that area here tonight who has a business there and would

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want to talk to us about that. As far as the historical aspect of it, I think that's something that we'll go into in great detail, because we are particularly interested in historical. Even though this is listed as not high on the list of mid-century preservation areas, I think that we probably will hear a good deal more about that as well. Those are my two additional comments to what's already been said.

Mayor Holman: Council Member DuBois.

Council Member DuBois: I did meet with the applicant and the architect. I didn't learn anything that isn't public. We talked a little bit about their experience running hotels. When we do get to questions, I have a couple. Hopefully you guys can keep track of all these questions. I'd like to know about the setback plan from San Antonio. I'd also like to know—they're saying there's no conference center or restaurant—would you be willing to continue those restrictions kind of going forward? In terms of the setback, the Greenhouse is actually a pretty cool place. It's two-story with a lot of open space, a lot of greenery. I think seeing a really high-quality landscape plan here with some greenery that's kind of echoing the Greenhouse could go a long way. I understand that hotels have less impact on traffic usually. One thing that this Council's been talking about a lot lately is context and compatibility. It's surrounded by kind of one-story buildings. You've got two-story Greenhouse across the street. I think if you did some work and kind of improved transitions—I see a little bit of it in the picture where it's kind of lower on the sides and goes up in the middle. If there were a way to step it up, kind of one to two to three to maybe four stories, I think it might be more compatible and less kind of aggressively massive. I think going right up to the five stories, that's where a lot of people are having trouble in terms of context. Just two other quick comments, I guess, for my colleagues. We have an incentive, an FAR of 2.0, for hotels. I think it's worked. It may be time to maybe reevaluate that and maybe decide if we've kind of achieved what we wanted to achieve. The last comment was if this project moved forward, I'd really appreciate if the applicant could do extensive outreach to the Greenhouse and really understand their concerns and see if there's other things that could be done to address them.

Mayor Holman: Vice Mayor Schmid.

Vice Mayor Schmid: Just to reflect some of the comments my colleagues have made. I think the placement of the hotel near north Bayshore is a positive element. That area is going through quite a dynamic business development, and this would provide lodgings at a convenient and accessible place. It is in a CS neighborhood with a variety of commercial enterprises up and down the block. In our Housing Element we did clearly state that

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dense housing at that spot would probably be better placed where transit, jobs, neighborhood services are close by. I guess there are two elements of it that do raise questions in my mind. I'm surprised it's a five-story building and it's under 50 feet which implies that you're using space massively. I think the height and massing are an issue. Someone mentioned the ideas coming out of the ARB recommendations that has already been mentioned by one of my colleagues of thinking through how to provide different levels, more of a breaking up of the mass of the building, I think, would serve it well in the neighborhood setting. Finally, traffic has been mentioned many times. I find that San Antonio, especially the San Antonio and Charleston exit cross-streets are a real issue. Our traffic model chronically says for each application that this will not have a significant impact. Yet, when we look at cumulative totals, I think our updated traffic model when looking at cumulative totals is more sensitive to what is taking place on some of our main streets. I think San Antonio and Charleston are clearly important east-west corridors. The traffic and the in-depth look at traffic and the traffic models are something the Council will spend time on. Thank you.

Mayor Holman: Council Member Filseth.

Council Member Filseth: Again, I'm going to concur with most of the opinions here. I do think the applicant's argument about the location of the 2-mile radius circle and the other hotels was compelling. I find the argument that if you are going to go to the Research Park or Downtown, you're probably not going to stay down by the corner of 101 and San Antonio, I think that's probably right. I think this is a reasonable location for a hotel given the area that it's intended to serve. My inclination is if the project meets Code and follows zoning, then we shouldn't stand in its way. That said, I think there are sort of two areas of concerns or areas of focus. One is it is pretty big. I think whatever emerges from this process needs to make sure that it meets the compatibility Codes which are qualitative, but it meets sort of the compatibility criteria with its surroundings. However that emerges, it needs to do that. The other one, again, is the traffic. A lot of concern from the neighbors about is there going to be cut-through traffic through their neighborhoods, is it going to further clog up the ingress and egress to 101 and so forth. I think we need to understand that. Those would be the two focal areas that I would think about. Thanks.

Mayor Holman: Thank you, colleagues. The slide that Mr. Williamson had up earlier was that what you would like to hear from us tonight, is this a good use for the site? I would say hotel is a good use for the site. Is there any major concern regarding context, traffic, Housing Element, historic evaluation? Yes, on each of those. We don't know yet if the potential resource is a cultural resource or not. Regarding the Housing Element, one

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of my questions for the applicant is would you consider extended stay rooms. Is that something that you would consider? Traffic, you've heard colleagues ask the same questions. I have the same questions. Context, I definitely have concerns there, and apparently the ARB had comments and concerns too. Four and five stories right at the street, straight up, just does not respect the context whatsoever. It really creates what we've talked about before at this Council and in the public about creating canyons and creating literally walls of buildings. That's really not what we want to have in this community and not on San Antonio, not on El Camino, not anywhere else. It just really is not what we want to see here. It's not an attractive addition. The context and the transition, I think, are really important at this site and all sites. We recently looked at a project where we used the Context Based Criteria. I would suggest that the applicant in this take a strong look at those criteria and apply them. Mr. Popp will know what I'm referring to. We don't have the benefit of having ARB comments nor are we at the point of reviewing a project per se. We're talking about land use and basic considerations. That's what the preliminary review is for. Those would be my comments. Mr. Williamson, you had a few comments or questions to be addressed.

Mr. Williamson: Honorable Mayor and Council, I think I have them all. Let me just run through them. First on the traffic management program. We have not formalized or submitted as part of an application yet the TDM program. We have said we want to do one. We are willing to do one even though we don't think that the TIA study will show that we need to do one. We want to offer more. We would like to customize that program with the City. We want to offer shuttles. We want to offer a bike program. We want to offer ZIP cars. We want to offer whatever the group wants to do. We want to do it together, in concert with the City. Where do these shuttles run? How are they most effective? We will do it. The issues are on the table. It's just how do we work together to get the most effective program. I hope that answers the TDM portion. Development impact. There's a couple parts to that. You've got to get materials and men to the site to build the building. It's going to take about a year and a half to build it. I understand that's never pleasant for anybody. However, we will comply with all rules. We're also negotiating with property owners on the back side of our property in Mountain View to provide access to the back. What we can commit is we won't have workers parking in the neighborhood or on the City streets. We will have a shuttle program. We'll make sure we're working with people to stay within all the rules and regulations that the City would like it to comply with. I hope that answers that question. Have we talked to the tenants, I think, came up as a question. We have not given formal notice to the tenants, because we have no visibility to approval or vacating the site date yet. I believe all of our tenants understand what we want to

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do. We've had an outreach program. We've invited them to meetings. There hasn't been great participation from the tenant base yet. I think they're well informed. Hopefully that answers that question. Setback from San Antonio. There is a special setback. I think it was put in place for Greenhouse I and II. Our project does comply with that special setback. It pushed our project back away from San Antonio a little more than the normal CS zone requires. Maybe it was Tom that asked about restricting conference center and restaurant use. I think it was both, Tom. Yes, we'd be willing to have that be a condition of the project, to restrict those uses. Consider extended stay rooms. I believe that was your question, Mayor Holman. The answer is yes, we would consider extended stay rooms. We couldn't do all extended stay rooms, but we certainly are willing to consider some. That's a good dialog about what does the group think the demand in the area is for those rooms.

Mayor Holman: Were there any questions that didn't get answered? Seeing none, but Council Member Wolbach had a follow-up and, I think, Council Member DuBois does.

Council Member Wolbach: I would just say thanks for your offer of working with us on transportation demand management. It's something that I've mentioned a couple of times. I think it's something that we should explore is partnering with Mountain View and potentially with Los Altos as well to explore and maybe even VTA to explore how we can improve transportation up and down San Antonio as a corridor. Whether we're doing something directly with you, you're doing your own thing, or you're helping join a larger initiative, I do appreciate your being open to having those conversations.

Mr. Williamson: Thank you. By the way, we're very open for it. We want to be a good part of the community. That is our goal.

Mayor Holman: Council Member DuBois.

Council Member DuBois: (inaudible)

Mayor Holman: I have a question for Staff. Thank you, Mr. Williamson. I have a question for Staff. We've encountered this before where there's going to be an historic analysis done, and it does not go to the HRB. Even though the HRB evaluates buildings for addition to the inventory, they don't seem to have projects come to them or reports come to them that determine whether something is historic or not, to see if the analysis is accurate or not. Can we not have this evaluation, this analysis go to the HRB for consideration? Then they recommend then to the ARB.

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Ms. Gitelman: Thank you, Mayor Holman. As I said, we haven't concluded the historical analysis as being done by Sheldon's firm. We will have that in our hands shortly. I think there should be no problem in asking the HRB's input at some point in the environmental review process.

Mayor Holman: Just a little bit of clarity. At some point, so not after ARB is complete then, I would presume. Early enough to be meaningful.

Ms. Gitelman: Understood.

Mayor Holman: Good, thank you. Seeing no other lights, I believe that concludes this item. Thank you all, applicant and colleagues, Staff.

Special Orders of the Day

2. Fire Safety Month Poster Award Recognition to Palo Alto Unified School District Students for Excellence in Design, Art and Messaging.

Mayor Holman: Our next item on the agenda, Item Number 2, is Special Orders of the Day. This is Fire Safety Month Poster Award recognition to Palo Alto Unified School District students for excellence in design, art and messaging. Welcome, Eric.

Eric Nickel, Fire Chief: Good evening. Good evening, Madam Mayor and Honorable Council Members. As we get our students in here, they're getting an extra lesson tonight in local government and the methodical process that we go through here. We apologize for the noise we were making a little bit earlier. We'll quickly jump into this. My name's Eric Nickel, and I'm the Fire Chief. I'm excited to introduce a group of extraordinary youth fire prevention students that are filing in here. As you entered the Council chambers this evening, I hope you all had an opportunity to take a look at the excellent safety artwork that is hanging on the walls in there by some of these amazing artists that I'll get to introducing here just in a moment. As you know, October is Fire Prevention Month, or was Fire Prevention Month. It was established to commemorate the Great Chicago Fire of 1871 that killed more than 250 people and left 100,000 people homeless. This year the Palo Alto Fire Department hosted a series of events including open houses, a City employee safety day, a nationally recognized conference of government leaders, industry officials and leading academic researchers for the Smart Home Summit, and of course our annual Youth Fire Safety Poster Contest. This year's theme was "hear the beep while you sleep." Got a nice little catchy rhyme to it. There's a story behind it, because roughly half the home fire deaths result from fires reported between 11:00 p.m. and 7:00 a.m. when most people are asleep. Smoke alarms save lives. Having a working smoke alarm cuts the chances of dying in a house fire in half. The

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United State Fire Administration has identified two high-risk groups, which I know are very important in this community and we pay a lot of attention to, and that is those under the age of 13 and over the age of 65. Unfortunately, these two groups which are roughly a third of the population in the United States represent almost half of all the home fire deaths. Very important we pay attention to these two groups. The 114 men and women of the Palo Alto Fire Department are committed to education to reduce the community's risk from fire, especially in these high risk youth and elderly groups. I would now like to introduce my colleague, Fire Apparatus Operator Tammy Jasso, to tell you more about the successful artist-inspired and youth-led risk reduction program.

Tamara Jasso, Fire Apparatus Operator: Thank you very much for having us here and taking time out of your schedule. Again, my name is Tammy Jasso. I have been here in Palo Alto Fire for 12 years, and I've been doing the poster contest as the poster contest coordinator for ten years. The poster contest has been going on for many years before that. I took over for someone else. There's a long history there. It is open to all students, kindergarten through fifth grade, in the Palo Alto Union School District. Every year we get a couple hundred entries into the contest, and it's really difficult. A group of firefighters judge the contest every year. Every year it's difficult to make choices for the top three in each grade level. The University Arts is our sponsor. They've been sponsoring us for as long as I can remember, prior to when I started doing the program. They provide gift certificates to the winners. First place gets a \$25 gift certificate. Second place gets a \$15 gift certificate, and third place gets a \$10 gift certificate as well as we give them a certificate of achievement. It's a very stiff competition, and every year we enjoy looking at all the posters. You will be able to enjoy for them for two months. They will be in your hallway for two months. I will turn it back over to the Chief, and we'll call the winners up.

Mr. Nickel: I believe we have all but one of our winners here tonight. We used to go out and recognize them in the schools, but we wanted to bring them here one evening and share them with the community. As I call them up, I would ask you all to either hold your applause until we get everybody up here, let's do that. Otherwise, we'll be clapping all night and we'll really get behind schedule. We're going to introduce first kindergarten. Third place, Mateo Rosas [phonetic]. Please come up. Mateo, are you here? There you are buddy. Second place for kindergarten, Ashley Ip [phonetic]. First place for kindergarten, Addie Johnson [phonetic]. Addie, are you here? Let's see. Moving on to first grade. Third place, Cocko Ishizaka [phonetic]. Second place, Clara Greffen [phonetic]. First place in first grade, Ju Yung Kim [phonetic]. Moving on to second grade. Olivia Zoo [phonetic], third place. Second place, Min Jae Kim [phonetic]. Our first place winner here,

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Tanov Parth [phonetic] is not here tonight. Moving on to third grade. Third place, Hannah Kim [phonetic]. Is Hannah here? No Hannah. Second place, Abigail Kim [phonetic]. First place, Lauren Lee [phonetic]. Fourth grade. Third place, Annie Tran [phonetic]. Nicole Samara [phonetic]. Michelle Koo [phonetic]. Moving on to fifth grade. Third place, Arlette Albert [phonetic]. No Arlette. Amanda Yoon [phonetic]. First place, Allan Lee [phonetic]. Congratulations everybody. Thank you very much.

Mayor Holman: That concludes the best part of our meeting this evening.

Agenda Changes, Additions and Deletions

Mayor Holman: We now move to our next item on the agenda which is Agenda Changes, Additions and Deletions. We have none.

City Manager Comments

Mayor Holman: We now then go to City Manager Comments. Jim, follow that act.

James Keene, City Manager: Thank you, Madam Mayor. We have the at-places memo that Item Number 10 on the Consent Calendar is being continued until the meeting on the 14th, just so we're clear for the record. That is the approval of Amendment Number 3 to the Palo Alto-Stanford Fire Protection Agreement. We just had some continuing conversations with Stanford on that. That being said, City Manager Comments. Excuse me. Just give me one more second here. As the Council might have seen in the packet release for the 14th and the announcement I sent out earlier today, we have selected Rumi Portillo to serve as the City's next Chief People Officer, to direct our Human Resources Department. She's served as director of HR for Los Gatos for the past ten years and has a 25-year career in public sector human resources. Her appointment will come to Council next week as part of the confirmation process. With your approval, she will actually be able to officially start in mid-January. Streets and utilities project coordination. I did just want to share that as much as the home town complaining that we get about our street construction schedule and coordination goes, we not only do listen but so does the rest of the world pay attention. We did want to share that our project coordination system was recently featured as a successful case study in best practice as part of the Federal Highway Administration's Smarter Work Zones webcast series. The project leverages our geographic information system, GIS, to allow Public Works and Utilities Staff to plan and view projects over a minimum five to ten-year horizon. The bulk of the webcast consisted of a presentation by Public Works Engineer Murdo Nicolson Jr. highlighting the success of the City system. This high level of coordination has helped enable our street

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maintenance program team to stay on pace to meet the Council-established goal of a Citywide average pavement condition index score of 85 with no streets below 60 by the end of 2019. We are on track to do that. Tomorrow at noon, an exciting moment for those who are able to make it. Both the Council and the community is invited for the official inauguration and ribbon cutting of the restored El Camino Park across from the Stanford Shopping Center. I mentioned it last week, but this is a probably still hidden new jewel added to the constellation of infrastructure and building improvements that Council has been undertaking over the past ten years. We know the public will greatly appreciate the athletic fields, the expanded parking lot, the bike and pedestrian pathways and other amenities. This is just another example of some of the infrastructure projects we completed this year that included the Cal. Avenue streetscape program and the Rinconada Library amongst others. I again did report this earlier, but we will be having a second sandbag day this Sunday, December 13, from 9:00 a.m. to 2:00 p.m. or until supplies last at the City's Municipal Service Center located at 3201 East Bayshore Road. Palo Alto residents can pick up filled sandbags, and volunteers and City Staff will help load vehicles. This next bit, though, is a new announcement. As a pilot program the City will also provide trained volunteer sandbag installation advisors to meet Palo Alto residents at their homes to answer questions related to sandbag placement around homes. The primary goal is to educate our citizens on where to install sandbags to protect their homes from possible flooding. The advisors won't be placing the actual sandbags; that will be the responsibility of the homeowners. Believe it or not, there are important do's and don'ts as it relates to putting out sandbags to actually do the best possible job protecting a home. Beginning today, Palo Altans can contact the City's Public Works Services Division at 650-496-6974 Monday through Friday between 9:00 a.m. and 5:00 p.m. to book an appointment. Appointments will be available from December 14th, 2015 through January 10th, 2016. We'll have more information on the website related to that. Community Development Block Grants are shrinking. This is Federal funding available for multifamily rehabilitation projects for the 2016-2017 year. We still do expect to be able to distribute an estimated \$300,000 in funding for multifamily housing rehab from the U.S. Department of Housing and Urban Development as part of the CDBG program. Funds are distributed to local nonprofit agencies in the form of grants. While the Council decides which projects to fund from applications submitted, active citizen participation is an important feature in the CDBG process. Applications are now available, and the deadline is January 8th, 2016. For more information, people can contact eloiza.murillogarcia@cityofpaloalto.org. A brief update on the East Bayshore Road at San Francisquito Creek bridge construction, which is being designed and ultimately carried out by the State Highway Department, Caltrans. Caltrans has asked our Staff to review several options for the phasing of the

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upcoming replacement of the East Bayshore bridge over San Francisquito Creek. East Palo Alto is also looking at the options presented by Caltrans which include, one, a partial closure during two construction seasons or, two, full closure during one construction season. That would be starting next year. Staff has reached out to both East Palo Alto and the large employers and stakeholders in the immediate area and currently believe that a partial closure during two construction seasons makes the most sense. This partial closure could either operate with two-way traffic using a temporary traffic signal or with one-way traffic. We understand that all of these are inconveniences; it's just which is the best approach. Our Staff has analyzed both operations and has determined that a one-way operation would work more efficiently resulting in less diverted traffic. East Palo Alto is likely to propose a full closure during the 2017 construction season due to the current construction of a large private development at the north end of this segment of East Bayshore Road. While it's not our favorite scenario, we will have ample time to plan for measures to address the anticipated traffic diversion through the City of Palo Alto and other associated impacts. Staff will have more to report to you on this. I know that you have received lots of comments and concerns from the public about the impact of this construction project on local and even to some extent regional traffic. That's all I have to report.

Mayor Holman: Council Member DuBois has a question for you.

Council Member DuBois: Just a quick question. That sandbag day, did you say December 13th? Is that ...

Mr. Keene: Yes, Sunday, December 13th from 9:00 a.m. to 2:00 p.m.

Council Member DuBois: Thanks.

Oral Communications

Mayor Holman: Thank you. That takes us to Oral Communications. I have three cards on the topic. Keith Bennett to be followed by Esther Nigenda. You'll each have three minutes.

Keith Bennett: Thank you. I'm going to make a few quick comments on dewatering. The first. I've always opened the talks with a perspective on how much water is involved. In this case, I made a graph here, and I should give you these. I apologize. If we take all the water from 14 lots and put it on a single 8,000 square foot lot and stacked it up, it's higher than the World Trade Center. Why this is relevant. It means it's more than 100 years of rainfall per lot, and it's probably between 400 and 1,000 years of aquifer recharge from rainfall per lot. It's a huge amount of water. The

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question has been asked of me from where does this water come. There's an assertion in the EIP report that the cone of depression or zone of depression is a few feet or a few tens of feet. I took numbers for soil conditions and estimates from the City on the amount of water that's pumped and the length of the pumping or duration. What you'll see here is using an equation that describes an unconfined aquifer that's homogeneous, that 250 feet away the water is pulled down by 3.3 feet, and for a scenario for 30 feet away the water is pumped down by 6.7 feet which would be typical of a project. This total pumping is about 10 million gallons. These numbers are consistent with the actual experience. In fact, 1,000 feet away from the pumping site, the groundwater table is pulled down by a foot. The other point is at the Policy and Services Committee meeting there was some discussion as to where the high recharge area is, where the shallow aquifer and the deep aquifer connected. This is a graph from the East Palo Alto groundwater management study. It is Figure 13. It shows that around Stanford Shopping Center, it is at Nordstrom. However, the high recharge area dips down toward Castilleja School and then roughly goes along El Camino. The other point I want to make is that water can flow from the shallow aquifer, and it can flow east as well as west if there is a pressure gradient. Water in the shallow aquifer can recharge the deep aquifer at areas that are not directly below. Water does not have to flow straight down. It can flow laterally, and it does flow laterally. Finally, I will end and actually let the next speaker follow through with some conclusions and implications.

Mayor Holman: Thank you. Esther Nigenda to be followed by Rita Vrhel, who is our last speaker on Oral Communications.

Esther Nigenda: From the slides that Keith showed, it looks like the previous assumptions that were in the EIP, they appear to be incorrect. The first point is this amount of water must mostly come from beneath other properties. The amount of water removed is hundreds of years of groundwater accumulation from that property. Second point is with current practices the zone of depression likely extends over 1,000 feet, not tens of feet as estimated in the IEP report. The actual water table drawdown will not be readily symmetric. If we modify construction practices with shorter dewatering periods, we should be able to reduce the water pumped by more than 85 percent. As Keith showed, high deep aquifer recharge zones extends to about Emerson and Embarcadero. The dewatering likely affects the deep aquifer recharge rates. The shallow aquifer groundwater can flow above the impervious clay layers to recharge the deeper aquifer. For 400 acre feet which is the amount of water that was removed this past year for the 14 residential basements, enough water is removed to lower the shallow water table by 2 feet over an area of 4 square miles. Summarizing the new

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information. The report from EIP and 2008 Staff Reports say that insignificant amounts of groundwater were pumped. There is no published information in these reports on the groundwater budget. The current information is that the groundwater pumped is 5 to 10 percent of likely inflow and 20 to 50 percent of rainwater inflows to the sub-basin. From the 2004 EIP report, because dewatering for basement construction occurs only in the uppermost portion of the shallow aquifer, there will be no effect on the deeper aquifer. The current information is that the shallow and the deep aquifers are hydrologically connected and the shallow aquifer directly and indirectly supplies the deep aquifer which is the source of our emergency water supply. The last piece of information that we're sharing tonight is that the report from the IEP stated that groundwater in the influence area would move toward the base of the excavation and would extend from several feet to several tens of feet. Keith showed tonight that the water table is significantly lowered up to 1,000 feet away for a single excavation site and lowered within a 1-mile radius. A significant amount of water is removed from neighboring properties. Thank you.

Mayor Holman: Thank you. Our final speaker this evening on Oral Communications is Rita Vrhel.

Rita Vrhel: I just wanted to thank everybody who was on the Policy and Services Committee for listening to our concerns on 12/1. There are about 50 residents other than ourselves who came and spoke to this topic. The discussion was very lively and quite informative. Staff was given a very large list, probably 50 items, to investigate. We had requested an immediate moratorium on dewatering for residential basements. Even though Mr. Wolbach and Mr. DuBois indicated that they were looking at this, inclined to this, in favor of this, considering this, no Motions were passed pending Staff review of all the requests. The slides that Keith and Esther just presented are pretty astounding. I was listening to NPR radio on Saturday at 3:00 to 4:00, and they were talking about climate change and a situation in a town 20 miles out of Fresno where the entire town one day just their wells went dry. This is our emergency groundwater supply. I think that it was very obvious during the Policy and Services Committee meeting that the EIP report that has been the determining factor on how our groundwater has been managed for the last 20 years was, per Mr. Bobel on Mr. Burt's direct question, inaccurate. We don't pretend to know how much groundwater we have, but we do feel that the reports that have been used by the City for groundwater policy are incorrect. There needs to be an investigation of not only the shallow aquifer, but of who in the surrounding cities are using this water and how long will this water potentially last if no one knows how much there is or how many people are using it. This not only speaks to residents who have their own wells, but it also speaks to

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municipalities. Again, we are hoping that we will have a large turnout for the 12/15 meeting even though it starts at 7:00. We are hoping that the Policy and Services Committee will have an immediate moratorium imposed while Staff investigates the numerous other issues involved. We also hope that our emergency groundwater supply is protected by the City Council and the Policy and Services Committee. Thank you.

Mayor Holman: Thank you, and thank you all for coming this evening.

Consent Calendar

Mayor Holman: That concludes Oral Communications and takes us to the Consent Calendar.

James Keene, City Manager: Madam Mayor, may I just ...

Mayor Holman: Yes, sir.

Mr. Keene: ... depart from the usual practice just a little bit. A little clarification. When we come back to the Policy and Services meeting on the 15th, there were so many items and the range and depth of things that the Committee was concerned with, the main focus of that report will be able to sort of triage the suggestions into kind of groupings of ways to time when they could be discussed over time with Policy and Services. Lastly, I just wouldn't want anybody to be misled by the meeting, that the Policy and Services Committee itself has no authority to impose a moratorium or other specific actions. Those are decisions that have to come to the whole Council upon recommendation from Policy and Services. Nothing like that could take place even until we got into the new year, just given the Council's schedule. The Committee may have some discussions. Thanks.

Mayor Holman: Just one question. Is the Policy and Services Committee agenda item, is it an action item?

Mr. Keene: It'll be scheduled as, I'm sure, an action item because they have to make some decisions. It's also a late minute addition to a pretty busy agenda that they also had previously scheduled. Given the length of time that they spent at the last meeting, they did ask that we bring this back for some discussion. Thanks.

Mayor Holman: Thank you. With that, we go to the Consent Calendar. Looking for a Motion by Council Members.

Council Member Kniss: So moved.

Vice Mayor Schmid: Second.

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Mayor Holman: Motion by Council Member Kniss, second by Vice Mayor Schmid, to approve the Consent Calendar. This is, as City Manager Keene mentioned earlier, with Item Number 10 being pulled for future consideration.

MOTION: Council Member Kniss moved, seconded by Vice Mayor Schmid to approve Agenda Item Numbers 3-9 and continue Agenda Item Number 10- Approval of Amendment Number Three to the Palo Alto-Stanford Fire Protection Agreement... to December 14, 2015.

3. Resolution 9563 Entitled, "Resolution of the Council of the City of Palo Alto Summarily Vacating Public Easement at 3264 Kipling Avenue."
4. Resolution 9564 Entitled, "Resolution of the Council of the City of Palo Alto Summarily Vacating Public Easement at 4252 Manuela Court."
5. Adoption of an Ordinance to add Chapter 10.51 to the Palo Alto Municipal Code to Permanently Implement the Crescent Park No Overnight Parking Program and Expand the Boundaries of the Program.
6. Approve Amendment Number One to Contract Number C1415263 With Townsend Public Affairs to add 24 Months of Service at a Cost of \$8,500 per Month, Totaling \$204,000, for a Total Contract Amount not to Exceed \$391,000 for State Legislative Advocacy Services.
7. Budget Amendment Ordinance 5365 Entitled, "Budget Amendment Ordinance of the Council of the City of Palo Alto to Appropriate \$203,561 From the Residential Housing Fund for Rehabilitation of the Colorado Park Apartments Consistent With Prior Loan Approval."
8. Adoption of an Ordinance Re-Titling and Amending Municipal Code Chapter 5.30 (Plastic Foam and Non-Recyclable Food Service Containers and Packaging Items) to Prohibit Sale of Non-Recyclable Plastic Foam at Retail Establishments Such as Grocery Stores, Pharmacies, Mail Service Stores and Hardware Stores.
9. Resolution 9565 Entitled, "Resolution of the Council of the City of Palo Alto Revising the Citywide Records Retention Schedule and Repealing Resolution No. 8688."
- ~~10. Approval of Amendment Number Three to the Palo Alto-Stanford Fire Protection Agreement With the Board of Trustees of the Leland Stanford Junior University Extending the Term for One Year for a Total Fee of \$6.5 Million, and Approval of a Related Budget Amendment~~

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~~Ordinance Reducing the General Fund Budget Stabilization Reserve by \$675,000 to Offset a Reduction in FY 2016 Fire Department Revenues.~~

Mayor Holman: Vote on the board please. That passes on a 7-0 vote with Council Members Burt and Scharff absent.

MOTION PASSED: 7-0 Scharff not participating, Burt absent

Action Items

11. PUBLIC HEARING: Review and Adoption of an Ordinance to Amend Land Use Related Portions of Titles 16 and 18 of the Palo Alto Municipal Code. The Purposes of the Code Amendments and Additions are to: (1) Improve the Use and Readability of the Code, (2) Clarify Certain Code Provisions, and (3) Align Regulations to Reflect Current Practice and Council Policy Direction. The Affected Chapters of Title 16 Include but are not Limited to Title 16 (Building Regulations), Chapters 16.20 (Signs), 16.24 (Fences), and 16.57 (In-Lieu Parking Fees for New Non-Residential Development in the Commercial Downtown (CD) Zoning District), and Title 18 (Zoning), Chapters 18.01 (Adoption, Purposes and Enforcement), 18.04 (Definitions), 18.08 (Designation and Establishment of Districts), 18.10 (Low Density Residential RE, R-2 and RMD Districts), 18.12 (R-1, Single Family Residence District), 18.13 (Multiple Family Residential (RM-15, RM-30, RM-40) Districts), 18.14 (Below Market Rate Housing Program), 18.15 (Residential Density Bonus), 18.16 (Neighborhood, Community, and Service Commercial (CN,CC and CS) Districts), 18.18 (Downtown Commercial (CD) Districts)), 18.20 (Office, Research and Manufacturing (MOR, ROLM, RP and GM) Districts), 18.23 Performance Criteria for Multiple Family, Commercial, Manufacturing and Planned Community Districts), 18.31 (CEQA Review - a new Chapter), 18.34 (PTOD Combining District Regulations), 18.40 (General Standards and Exceptions), 18.52 (Parking and Loading Requirements), 18.70 (Non-conforming Uses and Non-complying Facilities), 18.76 (Permits and Approvals), and 18.77 (Processing of Permits and Approvals).

Mayor Holman: That takes us then to our first and only action item this evening. I will not read the whole title. I will read only the relevant portions that will be discernible to the general public. This is a public hearing. It is a review and adoption of an ordinance to amend land use-related portions of Titles 16 and 18 of the Palo Alto Municipal Code. The purposes of the Code amendments and additions are to, one, improve the use and readability of the Code; two, clarify certain Code provisions; and, three, align regulations to reflect current practice and Council policy direction. With that, apologies

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to anybody who's watching from home or listening from home that this will be a very difficult item to follow, because even with all of the paper or files in front of us, it's still challenging because of the complexities. Apologies upfront to the public. Staff has a presentation. It looks like, Jonathan, you're leading the way.

Jonathan Lait, Planning and Community Environment Assistant Director: Thank you, Mayor Holman. Good evening, City Council. Let me start by saying that I'm Jonathan Lait, Assistant Director for the Planning and Community Environment Department. I'm joined by Cara Silver, the Senior Assistant City Attorney, and Amy French, who is our Chief Planning Official in PCE. I want to thank both of them for their incredibly hard work and many late night hours and working on the weekends to help move this item forward on the schedule that we inked out earlier this year. Thank you to both of you for your hard work on this. What we're trying to do here with this collection of amendments to the Planning Codes is to take an opportunity to align our Code to the City policy as we've come to understand it from the City Council over time to reflect past practice of interpretations of the Code that have played out and to recalibrate some of the interpretations that have been made when you apply the Codes to projects. We think that there's opportunities there to pull some items back, so that they're a little bit closer to the plain reading of the Code. We also think that there are some provisions in the Code that are missing, frankly, that exist in other Codes that would give us a little more authority to help improve the administration and also to resolve some recurring challenges that we experience almost on a daily basis either at the Planning counter or as we're processing projects in PCE. When we were looking at this, our approach, I guess, was to first develop a list of items that we thought we'd be able to move forward. All along our objective had been to have noncontroversial items, things that we thought were pretty straightforward to move on to the City Council. We started preparing a list, and that list actually broke out into two lists, a Tier 1 list and a Tier 2 list. The Tier 1 list were those things that we thought we'd be able to move forward on the schedule that we had. Tier 2 items were items that in and of themselves were their own policy discussions or items that we thought may require more public outreach or other resources, whether they're a consultant or a financial resource to do studies. We started populating two lists, a Tier 1 and a Tier 2 list. As we were building those lists, we had the opportunity to meet with individual City Council Members. We met with local architects. I met with representatives of the local real estate organizations; I believe you received a letter from SILVAR talking about one of the concerns that they had about one of the provisions. Amy's been to architect offices. We've actually notified architects who we thought might be most impacted by some of the provisions, so that we can get the word out and have people be aware of what was taking place. We

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had three meetings before the Planning and Transportation Commission, not counting the introductory meeting that we had, as well as three meetings before the Architectural Review Board to discuss in detail the ARB findings or the AR findings that we were proposing to amend. What is before you then this evening is an ordinance that reflects the input from all those bodies. They are, in essence, the Tier 1 list. We want to draw the Council's attention to that ordinance, but also Attachment E in your packet. Attachment E includes a number of almost Tier 1 items. We've developed some language for them that could be plugged into the ordinance if the Council felt that that was appropriate to do. If those Attachment E items do not get put into the ordinance, they will get added to the Tier 2 list for a future conversation. We believe that if this process so far has gone fairly well, we anticipate it being a recurring activity that we do. What we'd like to do is have a conversation with the City Council on the Tier 2 items at a future date next year as we begin the second annual effort to talk about what that might look like, so we can get on the same page earlier than we did this time around. The presentation that we have before you to sort of make it a little bit easier to digest is grouped into these six different categories. The first dealing with signs. The second has to do with definitions and interpretations and some other standards related to single-family homes. The third group is about multifamily zoning and State Density Bonus Law. The fourth group about commercial zoning. Group 5 is the California Environmental Quality Act. Group 6 is the Architectural Review Board findings and some other procedural items. What I was going to do was highlight a couple of items from Attachment E that we think are important for consideration even if they don't get moved forward on the proposed ordinance. The first group then is Group 1. Again, I'm not going to cover the administrative items. Half of the amendments that we're proposing are administrative. They're missing words or outmoded references. We're just trying to clarify all that. This presentation is not going to address any of those administrative changes, but we're happy to answer any questions that you may have about them. The more substantive changes in this group relate to wall signs and projecting or blade signs. What we're trying to do here is streamline an existing process that we have. To do the types of signs that you see illustrated on the slide and included in your packet, an applicant would have to apply for a sign—a signage estimate?

Amy French, Chief Planning Official: A sign exception.

Mr. Lait: A sign exception. That's fine. It's a process. As we're beginning to look more closely at the findings for DEEs or variances or even sign exceptions, we're finding it more difficult to support these types of signs based on the findings that are contained in those provisions of the Code.

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Most often than not, those signs are approved. We have an existing process where they would still go to the Architectural Review Board; we just wanted to eliminate the need for going through a sign exception effort. Actually the wall sign that you see is a picture in the Survey Monkey, that reflects our current practice now. We call those wall signs; before we were calling them roof signs, and that required the sign exception. The illustration on the other side there, projecting signs need to be underneath the canopy. We've approved many without the canopy, and we thought, "Let's remove that standard." That's Group 1; moving onto Group 2. Group 2, again, is definitions, interpretations and other changes related to single-family homes. The first one has to do with zoning interpretations. This is a new section that we're proposing. On a daily basis, we're looking at the Code, and we're applying it to projects either at the counter or in the office when proposals come forward. That's fine, but sometimes you come across a project where it doesn't neatly align with the plain reading of the Code, so we need to make some decisions and some interpretations about how that might apply. What we're trying to do here is establish a process that doesn't exist formally today in the Code, whereby if we do make an interpretation, that's really an interpretation. You're trying to apply something to a project, and the Code doesn't give you as much guidance. We want to be able to write that interpretation down, present it to the community in a transparent way, and give an opportunity for people to appeal that within a 14-day period. If there's no appeal, that would then become the new interpretation that would sort of rule the day until the next set of Planning Codes would come around. Then we would codify that so we don't have a long list of interpretations that we currently have now. This is an attempt to be more transparent and upfront about how we make interpretations. This is a provision that exists in many Codes throughout the state. The next one has to do with a clarification about gross floor area. This reflects existing practice today. All we're trying to do here is clarify that stairs and elevators on all levels of a home would count towards gross floor area as that contributes to the bulk and mass of a home. This, again, is reflecting current practice, this change. The next modification has to do with a definitional exclusion to gross floor area having to do with compliance with the American Disabilities Act. What the Code does now is it doesn't have a cap for how much area can be exempted from gross floor area and parking, actually just gross floor area. What we're trying to do here is make that clear that what we're trying to do is narrow it to the minimum extent necessary, so that there's not an over-exaggeration of how much floor area is needed to be exempt to accommodate ADA-related items. Also, we're making a word change in the amenities that are excluded from gross floor area. Right now the Code reads, I think, drycleaners. What we're proposing to do is just make it a more general term of onsite laundry. The definition of usable open space, this again is reflecting current practice. We've seen

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some really creative ways to use open space. Our current practice, I think, has been helpful, but we wanted to update the Code language as proposed in the ordinance to be clear that you can have open space that might be covered by a canopy or a floor above as long as it's substantially open to the sides. The next is a new section dealing with use classifications. It's similar to the interpretations section I talked about before. It just gives the Director the authority to say this use is similar to other uses that are permitted in the area, in the district. For example, tutoring centers are not identified as a permitted use in the Code, We have them in the City; we want to have the ability to say that this use is similar to a personal service use. The next item has to do with noise-producing equipment. This actually occurs here and then also another section of the ordinance, pages 264 and 268. What we're trying to do here is simply clarify that if you have an existing mechanical equipment in a side yard where it's not supposed to be today, that we would allow for the replacement of that with a more contemporary equipment, quieter equipment, that was in compliance with the noise ordinance. This next amendment is simply implementing Council's direction to remove the application fee requirement for single-story overlays. The home improvement exception, wall retention, this reflects current practice today. There really isn't any controversy about this particular item. This is what we do when we approve these home improvement exceptions. This is an existing practice in the Code today. We just wanted to clarify that 75 percent of the exterior walls needs to remain intact, and that means the siding and the cladding and so forth. I'll note that this is distinguished from one of the Attachment E items that I'll be talking about later dealing with remodels and renovations to home. To my knowledge, there's not been any controversy about this one. The next item deals with residential bay windows. Frequently we've been asked by architects, we do allow bay windows to project into a front yard, but we don't allow them to project into a corner street yard. This would give the opportunity for an architectural projection into that setback which is typically about 16 feet, as I understand it. Moving onto the next group of amendments. These are multifamily amendments and related to the State density bonus. The first one is the multifamily density range. This is just a clarification to, again, reflect past practice. Our Zoning Code sets forth a range of densities that are permitted for the RM-15, RM-30 and RM-40 zones, but we often see projects that do not rise to that density per acre. In fact, we have allowed single-family homes to be permitted in multifamily zones. The intent here is simply to memorialize that practice. There may be another Council conversation about whether that's something we want to continue to do. We're not trying to tackle that policy issue with this amendment. All we're trying to do is reflect what we've currently allowed. The next two items I'll talk about relate to the Density Bonus Law. There are some recent changes to State law, some that perhaps may be more favorably received relating to

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increases in the affordability restriction for rentals. This goes from a 35-year period to a 50-year standard. It also requires a developer who may be demolishing affordable housing units to replace those units before they start applying for the density bonus housing. You don't get the credit for the one that you've demolished. The other Density Bonus provision actually removes a little bit more local authority because it lowers the parking requirements for density bonus projects near certain transit areas, and those are defined in the State Density Bonus Law and reflected in the ordinance that's before you. Group 4, this is commercial zoning. There's a few amendments here that we're proposing. The first one relates to office use restrictions in the CN, CC and CS zones. The ability to establish an office use on the ground floor is restricted. What we're attempting to do here is address what we believe to be a sentence construction error in the ordinance, where it lists a number of opportunities where you could establish office use, medical or administrative general office, if you meet any of these criteria. In one zone in particular, I forget if it's the CN or the ...

Ms. French: CS.

Mr. Lait: The CS. If there wasn't any housing on the ground floor, then you could put office. We didn't believe that that was consistent with where the Council was going relative to the retail preservation conversations that were taking place. We also added neighborhood business service to the list of uses to be considered when office is being proposed to replace a retail type of use. That would be consistent with the Council's recent action on retail, retail-like, the moratorium. The next item has to do with the site and design review. We've noticed that mixed-use projects that come before the City oftentimes are four units or less. We were trying to understand why we're not getting more housing units. Our below market rate requirements start at five or more units for ownership housing. We've also noticed that we have this site and design requirement that if you are more than four units, you have to get a site and design application. That is an application that requires review before the Planning and Transportation Commission and the City Council. We were thinking that that may be a factor that is causing some developers to put only four units instead of more units, even if they would have to satisfy the affordable housing obligation, because they'd still be able to take advantage of the State Density Bonus Law. We thought that this might be a way to, one, reflect a housing policy that was updated in the most recent Housing Element to raise that threshold; and, two, could have the benefit of getting smaller, more units in the commercial area as part of mixed-use housing. The next item relates to that other definitional amendment that I was talking about earlier, related to the gross floor area and how much area can be exempted for accessibility and historic rehabilitation. This has been a good provision of our Code, but over time it's

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been uncertain as to whether or not it applies to existing projects or proposed projects. If it applies to a project, sometimes there would be a carryover to the next replacement project that would take place. What we want to do here is say, "If you have an existing building and you have this need, you get this exemption, but you only get it for a maximum of 500 square feet and it doesn't carry over to the next development." The next one having to do with grandfathered facilities. This is one where the Council has had a discussion about this and, as I understand it, had an interpretation that may have differed from how Staff was interpreting this section perhaps in relation to a project nearby. I think across the street there was a conversation about floor area shifting. What we're trying to do is memorialize that conversation into this Code section. This idea that if you've got one of these grandfathered facilities, there's almost like this—we call it a shrink wrap around the building. You can't move that shrink wrap. That's what this memorializes. It also gives a little out for changes that might need to take place for one of those types of buildings to facilitate better architectural design or pedestrian orientation. We've heard a couple of buildings in the area that would be limited by what they can do because of this shrink wrap provision. Through the AR process maybe make it a better pedestrian frontage, because it's very precise. You can't change the footprint of the building. You can't change the length of the building. That's where you're constrained if you want to change the entrance to a structure. To that point, actually I have some proposed changes to the ordinance language. This is on packet page 281. We had written this as a building volume, and we've modified that in the red, underlined section below. How that reads is for the purposes of this section, building envelope shall mean the three-dimensional shape and space occupied by an existing building. That's what we're trying to get at in that provision. Almost done here. Packet page 5 has to do with a series of CEQA-related changes. One is to establish clearly in our Code that if there is an EIR that requires a statement of overriding consideration, that that EIR needs to be reviewed and certified if it is to be certified by the City Council. It also incorporates the State CEQA guidelines. Our existing local guidelines are outdated. It also codifies an existing practice that we have that appeals go to the ultimate decision-making body which is the City Council. Group 6, Architectural Review Board findings and other procedural changes. The Architectural Review Board findings is one that we are somewhat passionate about because there's 15 findings that are needed to approve any project that goes—frankly, any project, any Staff-level project or any project that goes to the Architectural Review Board. I know that there's been some criticism in the past about the quality of some of the Staff findings when it relates to in particular ARB-related projects. What we're experiencing, frankly, is there's a lot of fatigue in having to write so many findings about a project, and many of those findings are repetitive. It increases our review time; it increases the writing

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time. We've spoken to Board Members; they're not excited about reading 15 sets of findings. You may still need some concept review findings which adds another five. If you're asking for a DEE, there's another two or three findings that need to be made. Our effort here was to focus the review of AR projects on some key categories of compliance with the Comp Plan and the Zoning Code, the context of the project to the neighborhood, the quality of the materials that are being used, and a few others, sustainability items. That's what we were attempting to do with the Architectural Review Board findings. Timelines, this is simply to reflect that it takes us a little bit more time to get work done than the Code allows. Preparing a packet for this body is at least five weeks out to start the report. We're not able to meet the 30-day timeframe to get an item, an appeal variance or CUP to the Council in that timeframe. Appeal process. This is an item that was referred actually from the City Council to the Policy and Services Committee. There was a conversation about home improvement exceptions and IRs, the ability to pull these items off of Consent. There are four votes that are currently required. Everything else that you pull off Consent is three votes. This amendment aligns it so that everything is three votes. The next item deals with timelines for approvals. Again, this is just an administrative change so that we have time to get the work to you. That's a summary of the more substantive changes in the ordinance. Now what I'm going to talk about briefly is four items on Attachment E, and that will complete my report. Attachment E, again, these are items that are destined for Tier 2, but I wanted to highlight a couple of them. Some of them in particular present some immediate challenges for us or reflect a Council direction. This first one deals with appeal fees. The City Council had directed the Policy and Services Committee to look at the appeal fees. In that review—I think we've transmitted some Minutes of that meeting at places today—the Policy and Services Committee had this recommendation. At the Planning and Transportation Commission, they thought it was a broader policy conversation that needed further conversation or dialog. We're just presenting it here as a rider almost to this ordinance to see if the Committee recommendation is sufficient for the Council. If so, you can pull that and put it on the ordinance. The next one has to do with rooftop equipment. This is making changes. This is eliminating the height of rooftop screening in the commercial areas from the current 15 feet to 8 feet. It would still allow elevators to go up to 15 feet. It doesn't make any changes in the industrial zone. It also includes a reference to another section of the Code not dealing with exceptions to the height limit, but these types of features above the building height which is distinguished from the height limit, because you can have a building less than the height limit. That's Section 18.23. We're saying if you're in this 18.23 section, go ahead and take a look at 18.40 because there may be some other restrictions that you need to be mindful about. The next one is footprint and basements. Basements have received

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a lot of conversation in the community lately. This is not an effort to make policy or to decide whether basements are good or bad. We have basements that are allowed today in the Code. That floor area is exempt. I'm talking in single-family homes that floor area is exempt. We have a definition that says in the R-1 section that basements may not extend beyond the footprint of the building or the building footprint. We have a definition of what footprint is. What we want to do is add the words—clarify that we're talking about the exterior walls of the building. Over time there have been porches or recessed entries that basements have been allowed to go under, and that's been fine. Even more recently, it's being stretched a little bit more where we're seeing pop-outs on a portion of a building to take advantage of a larger basement area. Again, we're not making any judgments about whether basements are good or bad or should be larger or smaller. What we need is a clear set of standards so that we can tell homeowners that this qualifies as a basement or this one does not qualify as a basement. Right now the line's just too blurry, and we spend a lot of time having conversations with architects and homeowners about where a basement can go. The last one that I'll speak about in my presentation has to do with the replacement of noncomplying features of single-family homes. This one, I suspect, we may have a little more Q&A about. I know you got the one letter from SILVAR and there may have been another letter coming in from a local architect. This is probably one of the more controversial items that we're addressing. Again, we're not trying to make any policy statements here about how remodels take place. What we need and what homeowners need and what architects and developers need is a clear set of standards about what is and what is not a remodel. At some point, you cross the line and you become new construction. Our policy or our Code has been that if you're new construction, you need to comply with the Codes. The typical situation that we have is you've got a nonconforming wall in a side yard setback. The way our Code reads today is that if the repair and replacement of that nonconforming wall is less than 50 percent of the total reconstruction cost of making that comply with the Code, then you can keep it. You can tear off the siding. You can replace the framing members. You can keep it, and that's fine. More often than not, you're going to have that scenario where that piece can probably stay because it's going to be less than the 50 percent reconstruction cost. That's the way the Code is written today. There is a policy that the City Staff has been applying to projects for a number of years now which says if you have this noncomplying condition and you remodel more than 25 percent, if you remove more than 25 percent of your exterior walls, then you have to bring the project into compliance with the Code. Sometimes that's gone up to 50 percent, so we've been between 25 percent and 50 percent. The concern that I have, personally, is that there's no guidance in the Code for that. That's not an interpretation. That's adding Code language that's not there now. I'm very uncomfortable

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about applying that policy that we have today to our Codes. That said, the provision is proposed here may not be perfect either, but we need to have a standard. Again, the thing that's been driving us here is about clarity and expectations. It's our hope that the Council will at least have a dialog about this section, even if it doesn't make it into the ordinance in Tier 1. We could benefit from some guidance about how to approach this. This is something where we've got a handful of cases that are pending a conversation about this particular item. I apologize for the length of the presentation. It's a pretty meaty ordinance. I wanted to make sure I covered all the key points. Thank you for your attention.

Mayor Holman: Thank you, Jonathan. Thank you to Staff for bringing these forward. You did not go over the Tier 2 items. Was that your intention, to not go over them?

Mr. Lait: Thank you, Mayor. Yeah, I was going to let the Tier 2 items sort of rest on their own. I felt like I was talking enough.

Mayor Holman: We'll see how far we can get. Jim, did you have a comment? You seemed ...

James Keene, City Manager: I would just ask that the Council consider the fact that you have a really strong recommendation here to divide the Tier 1 and Tier 2 items. They look involved enough for when they come back. I would just encourage you to not think about spending a lot of time on those tonight, knowing that we're going to have to come back. Secondly, even when we do come back, ultimately it might be worthwhile to think about is there ever some way to parse those out over time, I mean a little bit of time, so you don't have to feel like you've got to deal with a block of 10 or 12 or whatever it is, sort of thorny issues. I've done that. I've been in other jurisdictions before where over a couple of meetings the council can add a few of those sorts of things. Particularly for the folks who are less attuned to that sort of thing, it can be an easier way to work through those issues. Thanks.

Mayor Holman: I thank you for that comment. I would make one response to that which is just there is one item in Tier 2 that actually is cross-referencing and (inaudible) referred to in something in Tier 1. That's the height exception for mechanical equipment. Those are very intertwined. I have four members of the public who wish to speak to this item. Again, if you'll come forward when you hear your name. Dan Garber to be followed by Doria Summa.

Public Hearing opened at 7:14 P.M.

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Dan Garber: Hi. I am a resident, but I am speaking this evening as an architect. Staff has done a terrific job pulling this together. We have one suggestion regarding the proposed new language regarding 18.70.100, noncomplying facility replacement.

Mayor Holman: Dan, you might be helping us all if you would also point to what page in the ordinance, discussion that is.

Mr. Garber: Fifteen through 18 in the draft ordinance. These are houses that are typically built prior to current Code and sit in setbacks or are taller or have more area than would be allowed today. They also do not have plans that support a modern family's needs. Rooms get enlarged. Kitchens and bathrooms relocated, and electrical, mechanical, plumbing systems replaced to meet current Code. Despite being noncompliant today, these houses are very important to the visual fabric of the street and support the memory and image of our community, even when they do not meet historical thresholds. Those of you on the Council that know our work know that we work very hard to give our clients reasons to keep these houses. All these homeowners know that they have a very straightforward alternative to keeping their noncomplying house. If it becomes too hard to keep them, they can simply tear them down and build new. Staff's recommendation clarifying the amount of exterior wall that can be removed at 50 percent is very, very helpful and goes a long way to helping us make the case to keep an existing house. However, we respectfully recommend removing the words "windows, doors, cladding or siding" in Subparagraph A. Keeping all structural elements in place makes perfect sense. We are not suggesting that you can see through an exterior wall. The structural sheathing should stay in place. Windows, doors, cladding and siding are not structural. When configuring a plan to meet a family's needs, windows and doors have to move. The homeowner shouldn't be constrained to keeping these elements in their original places because it reduces the opportunity for interior reconfiguration and significantly reduces the reasons to keep the house. In fact, this is the number one reason homeowners build new; they can get what they want. Further, it appears that the language would likely keep a homeowner from replacing windows and doors that do not need maintenance or replacement, but need to be replaced for voluntary energy and durability reasons. Replacing functional but inexpensive single-pane, aluminum or wood stick windows with higher functional dual-glazed wood or clad windows is one example. All of our clients are very concerned about energy and focused on reducing their heating and cooling costs. Including cladding or siding in the language means that we would not be able to take down the siding of a house or install air vapor barriers and external sheet insulation with the structural siding, which is typical for houses attempting to be net zero and dramatically reduces the operational carbon footprint over

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the life of the house. Further, when we renovate Birge Clark houses, for example, there is no way to simply patch stucco when replacing a window and get it to look like the old stucco. If we cannot re-stucco the entire wall and sometimes the entire house, we cannot get it to look the way that it did. Our objective is to lessen the reasons a homeowner has to tear down their house. Including windows, doors and siding does not help us convince them. If the Council is insistent about this, we recommend either putting this into the Tier 2 set of topics to be studied further or to direct Staff to incorporate language that directs the homeowner to preserve the character of the house or gives Staff more discretion to find a solution with the homeowner that preserves the house.

Mayor Holman: Thank you very much. Doria Summa to be followed by Jeff Levinsky.

Doria Summa: Good morning, Mayor and City Council. Doria Summa, College Terrace. I wanted to say that I also really appreciate the amount of work that went into this for Staff when they're already very busy and their resources are stretched. Most of it truly is administrative and cleanup, but there were some substantive issues that I had concerns with. I'll just touch on a few of them. One of them is the building envelope issue in grandfathering. I just found out that they had changed the definition of building envelope and improved it much. I thought it was fine before, but the change you just heard, about not defining it by volume, really improves it. I still have concerns about shifting the building footprint. That has been dropped in this proposed amendment. I think when it comes to nonconforming buildings, it would be useful to keep that so that neighboring buildings can have a more predictable outcome. I have concerns in general about a number of places in the amendment that appear to give more power to the Director through Director's decisions. The reason I'm concerned about that is because I understand that that's put there to make things more efficient and move more quickly, but I think it makes decisions behind closed doors as opposed to in a public hearing. At the present time, there isn't a very reliable way to inform the public of Director's decisions in advance in case they should have concerns about them. That touches on transparency which we're all concerned about. A good example of that is 18.01.025 which is on page 5 of Attachment A. That only not gives the Director the power to make the decision of interpretation of Code, but it also makes that standard going forward. We might want to look at that a little and weigh the efficiency of making more decisions quickly versus the transparency. I'm also concerned about the ARB findings. The ARB Minutes don't really make me convinced that the ARB thought the findings changed were all good. I don't know if you're going to have time to discuss all that tonight. It would basically be writing from the dais which I know is difficult

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or impossible. If you don't have time tonight, I would urge you to continue that portion. Thank you very much.

Mayor Holman: Thank you. Jeff Levinsky to be followed by Herb Borock.

Jeff Levinsky: Good evening, Mayor Holman, Council Members and Staff. Palo Altans want reform in how our City manages development. This is manifest in the Maybell referendum, the 2014 Council election and the annual Citizens Survey. It's no wonder why. Our Zoning Code is riddled with loopholes that provide millions of dollars of benefits to developers while we are saddled with endless traffic and commuter parking jamming our neighborhoods. Incredibly, the proposed changes before you would continue many of these loopholes, enlarge others and create entirely new ones. It would make more development decisions in private rather than in open view. We call on you to stop that. You, the Council, pledged to not repeat the 27 University debacle, but just this year once again City Staff worked to help a developer who sought something that wasn't compliant with the law. In this case, it was the University Arts Building which submitted plans with inadequate parking despite the immense shortage of parking we have Downtown. We pointed out to Staff this wasn't legal, but they approved the plans anyway. I'm going to repeat that. We pointed out to Staff this wasn't legal, and they approved the plans anyway. Five of us appealed the approval, and the owner proposed new plans that would comply with the parking law, but this unhappy incident proves that the City Development Staff cannot be relied upon to enforce the law even when they know beforehand it's a violation. Tonight the very same Staff have put before you new proposals that would increase their power. They want to undo your own decision last year to adhere to decades old rules about noncompliant buildings. They want to let developers of multiunit sites put in fewer units than the Code specifies. They want new power to keep even more decisions hidden from public review and input. After 27 University and the University Art debacles, that would clearly be the wrong direction. Rather, we ask you to reject all language in the proposed ordinance that would reduce transparency, weaken Council control and undercut laws already in place. Please protect our City by saying no to these behind the scenes developer giveaways and yes to openness and the rule of law. Thank you.

Mayor Holman: Our final speaker on this item tonight is Herb Borock.

Herb Borock: Mayor Holman and Council Members, previous speaker spoke in general terms. I've only been able to review a few of the items. They are the same as what he said, so I don't have any confidence in the others. I believe the Tier 2 items should be deferred to later use. When you go out to one of them on packet page 384 on the seismic rehabilitation, I believe the

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existing Code language speaks for itself. In talking about amending it at this point, we should just let the existing project at 429 University go on. The three items in my letter. The first on packet pages 261 and 264 are interpretation of Comprehensive Plan and Zoning Code. I believe it's the City Council as the legislative body that has the power to interpret, and it should not delegate it to Staff. Therefore, Staff should simply make its recommendation to the Council and make that public in an agenda packet with adequate notice to the public on an agenda item for the Council's decision. In regard to the CEQA appeals process, packet page 284, first Staff misstates what the current practice is. It is the City Council rather than the City Staff or Director who makes all determinations on Environmental Impact Reports. It is the City Council and not the Staff that currently makes all determinations on planning and zoning issues including Comprehensive Plan amendments, Zoning Map amendments and zoning text amendments. It's simply not true to say that this is implementing something that's already going on by City Staff. In regard to this process, it's unclear whether Staff is asking for two appeals processes, one for the environmental review and one for the project itself. In fact, the California Environmental Quality Act encourages having the project and the environmental review occur at the same time in the same public hearings. It's not clear, if you follow Staff's proposal, there will be any public hearings on the environmental review if Staff has this process. You should essentially reject that proposal. In regard to the deletion of language from the PTOD district, the PTOD housing density bonuses in the site development regulations were written taking into regard the State Density Bonus Law. Based on court decisions, the State Density Bonus Law, if you delete that language, would increase the density in the PTOD by adding both the PTOD density plus the State housing Density Bonus Law. Some of you may want to increase housing density in that area of town. The way to do it is to have separate public hearings on a zone change before the Planning and Transportation Commission and the Council with Staff analysis and environmental review for the change. I've suggested one address, 2755 El Camino, where you could calculate or ask Jim Baer who probably has already done it to give you his calculations of the difference in the housing density under the current law versus what Staff is proposing deleting that one sentence. Thank you.

Public Hearing closed at 7:26 P.M.

Mayor Holman: Thank you. Does Staff have any response they want to make to any members of the public's comments?

Cara Silver, Senior Assistant City Attorney: Thank you. Cara Silver, Senior Assistant City Attorney. I would like to respond to two comments. First of

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all with regard to the CEQA appeals. Currently, the City's practice is that if the decision is made by the Planning Director and not appealed, then the Planning Director does make the underlying CEQA decision. Most of those CEQA decisions are either exemptions from CEQA or negative declarations. It's not common that the Planning Director will actually make a decision that is not appealed when there's an EIR associated with the project. It is very common that the Planning Director makes decisions involving a negative declaration or a CEQA exemption. What we are suggesting with these amendments is to codify the existing practice that the Planning Director has authority not only to make the entitlement decision but also to make the related CEQA decision. The reason why we're recommending that that be codified is that there was a recent state case that came down that said that this authority, even though cities have done this routinely through implied authority, that authority really needs to be expressed in the Code. This is really just a cleanup issue as we view it. We also thought as we were examining this issue that we should take a more in-depth look at our practice with respect to EIRs. There is some uncertainty with respect to that practice. We have a set of old CEQA guidelines that appear to specify that the Planning Director should not rule on EIRs, that that should be the Council's domain. We think for the most part that that is a good practice. Certainly with respect to EIRs that require statements of overriding decision, the Planning Director should not be making EIR decisions when you have to balance policy decisions in order to make a statement of overriding considerations. Those types of EIRs really should be elevated to the City Council. However, EIRs that don't involve a statement of overriding consideration, we think that those should properly be passed on by the Planning Director in the first instance. Of course, if there is an appeal, the appeal can go to the City Council. With respect to one of the public member's comments about whether there are two different appeal procedures that we have now created with these amendments, we have had a series of different appeal decisions historically. We allow applicants to appeal just the CEQA decision or just the entitlement, so we don't view calling out this CEQA appeal as creating another level of appeal. If you would like—I think the concern about the appeal fees is a legitimate one. That's something that can certainly be addressed by this Council if you want to just have a single appeal fee in the event that both the entitlement and CEQA decision are appealed. That would be fine. With respect to the issue about the PTOD district, what Staff is finding is that the PTOD district simply is not being used. There wasn't an exhaustive study about what type of additional housing density would be required through the PTOD district to make that district worthwhile to use. We think that by eliminating the language that doesn't allow additional density bonus to be used in the PTOD district would be more in line with existing State law and also would continue

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to promote the Council's policy to promote additional housing density in the PTOD district. Thank you.

Mayor Holman: Thank you. Jonathan, anything?

Mr. Lait: No, but happy to answer any questions that the Council wants me to follow up.

Mayor Holman: Very good. As you saw in the Staff presentation on Slide Number 3, the plan this evening is to go through the ordinance, which is Attachment A, and do it in bundles. Group 1 is signs. You'll notice after each section in the ordinance itself, it refers to the matrix number or numbers. You can cross-reference that way. Section 1—Group 1, I should say, is page 1 of the ordinance to page 5 ending with Section 3 about a third of the way down the page. With Group 1, signs, are there any questions or comments by Council Members? It could be questions, comments and Motions by Council Members. Vice Mayor Schmid.

Vice Mayor Schmid: Just a quick question on the signs. In your presentation, Jonathan, you had a couple of pictures of the projecting sign on the right-hand side there. I understand the ordinance limits the projecting sign to 5 square feet. Is that right?

Ms. French: Something along those lines, yes, small.

Vice Mayor Schmid: It seems the example you gave there has well over 5 square feet.

Mr. Lait: Yeah, and that received a sign exception. It was just more illustrative more than trying to speak to the size of the sign. All those would go before the ARB.

Vice Mayor Schmid: I just noticed that. Thank you.

Mayor Holman: Council Member Kniss.

Council Member Kniss: Going back and going into your own reports which is page 4 and packet page 241. You have a more extensive look at the signs. Of this number that you're showing, are there an enormous number of signs that don't meet our definition now or our new interpretation? Are we likely to hear from any number of owners? Frequently I'm asked about how can we get some signage.

Mr. Lait: I don't know that we have an order of magnitude. I understand that maybe there's a small handful of sign exception requests that are processed in a given year.

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Council Member Kniss: We're not saying ...

Mayor Holman: I think you need to be a little ...

Council Member Kniss: We're not saying it's a big problem?

Mr. Lait: No, but I also think though that if we begin to get these requests and we're evaluating them to the findings that need to be made, we're probably not going to be supporting the sign exceptions either. I think we've been a little more liberal in how we've applied the sign exception criteria to these signs (crosstalk).

Council Member Kniss: I think that would be really welcome. Thanks very much.

Mayor Holman: Council Member Scharff.

Council Member Scharff: Thanks. Dropping stuff over here. I sort of had a similar type question. You're saying the van sign is bigger than what we say we would allow, which is no sign shall exceed 5 square feet in area. Is that right?

Mr. Lait: Yeah. As I understand it, there's a limitation. Here's one that got a sign exception for a larger sign.

Council Member Scharff: How do you get a larger sign exception?

Mr. Lait: I don't know the details around the specific sign that's shown on the slide. One makes a request, and there's a number of findings that need to be made. If you can demonstrate that your condition warrants that granting of the sign accommodation or sign exception, the ARB will typically approve that.

Council Member Scharff: We're going to continue that then, correct?

Mr. Lait: Nothing is changing about the practice with the one exception that these would now be—not that, but a blade sign or a projecting sign would be—you can do that not under a canopy. That's the only change we're making about projecting signs.

Council Member Scharff: Since we have signs in front of us, I'm confused by this. We also seem to have strong language, and that's what caught my eye. Abatement of nonconforming signs which is 16.20.210. It basically indicates we find a nonconforming sign, we tell you to take it down is the way I read that. There seemed to be—the Max sign on the Max Smoke Shop seems bigger than 5 square feet to me. The van sign's bigger. There's a

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ton of signs that are bigger than 5 square feet. I guess, I was unclear about do all of those have sign exceptions or are there grandfathered in signs. This doesn't talk about any of that. Is that in a separate Code area, where we talk about grandfathering in or where we have a list of places that have gotten sign exceptions?

Mr. Lait: You're correct. That would be a different analysis, a different set of sections that we were not looking at. The problem that we identified, and maybe problem's ...

Council Member Scharff: I don't think it's a problem. I'm just asking.

Mr. Lait: I was going to say maybe problem is not the right word. The condition that we were trying to address is do we want to—we've been seeing a lot of these types of signs. Again, probably not a great example on the screen. A request for a blade or projecting sign that doesn't have a canopy above it or a sign that's on—we permit a sign to hang from a canopy but not be placed on top of the canopy. We didn't really see that as being a huge distinction between the two.

Council Member Scharff: Why do we choose 5 square feet?

Mr. Lait: Existing Code ...

Council Member Scharff: Is it just random or have we actually done a study and said we really care about our retail in our Downtown, and signs are really important to the health of small business and retail. It's probably the number one thing retailers want. Have we looked at all, like, taken an intelligent approach and said what should these signs look like and how does that affect aesthetics and what do companies do—not companies, what do other cities do, and what does this look like? Is it just we haven't really gotten into that kind of stuff?

Mr. Lait: I don't want to speak for those that were involved in the drafting of the Sign Code the many years ago that it was drafted. I can only speak to the effort that is before us right now. The very discrete change that we're making is the definitional change that's before you.

Council Member Scharff: I guess, when we start going through this process, what you're really looking for us is to address the discrete changes at this point that you're proposing as opposed to going through a bunch of other stuff that is in the ordinance.

Mr. Lait: That's right. We're specifically focused in on the strikeout and the underline.

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Council Member Scharff: Given that, I will move the Staff recommendations on our Group 1, interpretations of signs.

Council Member Kniss: Second.

Mayor Holman: Motion by Council Member Scharff, second by Council Member Kniss. I believe you were second.

Council Member Kniss: I was just a nanosecond ahead (inaudible).

MOTION: Council Member Scharff moved, seconded by Council Member Kniss to adopt Ordinance Sections 1-3, modifying Municipal Code Section Title 16 (Group 1 Interpretations of 16.20 (Signs)).

Mayor Holman: Council Member Scharff, do you want to speak to your Motion?

Council Member Scharff: I just wanted to say I actually appreciate you thinking through as a Staff this one issue and bringing it forward to us. It's a good catch. Thanks.

Mayor Holman: Council Member Kniss, speak to your second.

Council Member Kniss: I would say not only is the business owner for the sign important, but as you go down University Avenue you frequently cannot see what that particular establishment is which is frustrating. I forgot to ask one question though. We have nothing in here about neon, do we? Neon versus no neon. There are lots of neon signs Downtown. Pardon?

Mayor Holman: This is where I'd like to ...

Council Member Kniss: Usually they're on the interior. I haven't seen many that are outside.

Mayor Holman: Either Jonathan or I will, one or the other of us, jump in here. It's a procedural thing. Council Member Scharff, I didn't interrupt because I wanted to make the point here. There are other aspects of the Code that's in front of us that the Council will have interest in. The Staff's intention this evening is for us to focus on the things that are underlined, struck out, that sort of thing. That's why going down the neon avenue, while I appreciate the question, isn't on tonight's agenda. I do have this question for Staff. You will hear comments from Council Members this evening. What is going to be the best way to capture those things that are Code cleanup, clarifications, whatever, that we will want to come back? Will Staff make a list of those things that even individual Council Members mention and then at another meeting we will vote on yes, the majority of us

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want to hear about that item or not? What is your thinking on how we would address those?

Mr. Lait: I think that's a fine suggestion. We can make that list and focus in on the items here. As things come up, we'll make another list that we'll add onto the Tier 2, and we'll revisit all that with the Council.

Mayor Holman: On signs, you've heard from Council Member Scharff, 5 square feet. You've heard from Council Member Kniss potentially looking at neon and where it's applicable or not.

Council Member Kniss: With the understanding that currently it is not mentioned. I think that's an important point. I'm going to guess that at this point if someone were to apply for that, you would have to come to us for some kind of approval since it's not in the ordinance.

Mayor Holman: Actually, I think in looking at all of this, you have to look at this as this is not the whole Code. Neon is addressed in the Sign Ordinance; it's just not included in the packet in front of us. There is a neon aspect to the Sign Ordinance.

Council Member Kniss: Do we think it's sufficient then in the rest of the Code to cover that?

Mr. Lait: What I'm hearing is that we will return at a future date and we'll provide an explanation of how we regulate neon signs. You can decide at that time if you want to pursue an amendment. Is that fair? We don't have the whole Sign Code in front of us right now.

Council Member Kniss: We'll call that to be decided in the future.

Mayor Holman: Yes. Council Member DuBois.

Council Member DuBois: Before we go too far, I just wanted to make some high level comments. First of all, thank you, guys, for working through this. I know it's been probably six months and a bunch of meetings. It's really worthwhile to have the presentation really summarize a lot of confusing language very well. Thank you for that. When we first met in August, I think before you started your PTC meetings, we talked about closing loopholes. I think that's still really important. The PTC Minutes have kind of involved into kind of noncontroversial minor things. I think there are a couple of non-trivial things that maybe we can address tonight. I think several of the Tier 2 are kind of simple clarifications. I'm hoping we can cover a couple of those. With the rest of the Tier 2 list, I'm wondering if maybe the Council Retreat is the place where we could prioritize some of

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those that might be bigger. I think the City Manager said maybe next year when we go through Code cleanup breaking this into sections and bringing a little bit at a time. This was just massive to kind of go through all at once. We'll see how we do tonight. It's a lot. Just on signs, my understanding is there's no change to square footage of signs in any of this. That's right, right? Okay. Again just to echo, I think it's going to be really tempting; there's going to be a lot of interesting areas. If we start going off the rails on each one, we're never going to get done. I guess we'll keep our parking lot of ideas—we've created a new parking lot, so that's good for Palo Alto. I support the sign stuff that's here.

Mayor Holman: Yes. Because it's just too tempting, a little bit of history. Max Smoke Shop neon sign is legal nonconforming. When the Sign Ordinance was updated—I believe it was the 1980s—there was great discussion about that sign in particular. The overwhelming decision was to leave it because it's historic and iconic in its own right. The other about size of signs. A former Council Member many years ago when somebody was coming forward and saying that they really needed bigger signs and they needed bigger signs, they needed bigger signs, that particular Council Member said it's just really not necessary because Palo Altans drive slow and read fast. Just a little bit of history. The Motion in front of us Council Member Scharff made, seconded by Council Member Kniss, is to approve Group 1 which is through the top of page 5 up to Section 3. That would conclude Group 1. Vote on the board please. That Motion passes unanimously with Council Member Burt absent.

MOTION PASSED: 8-0 Burt absent

Mayor Holman: City Manager Keene is amused at us, I guess. The second group is definitions. That starts on page 5, Section 3 and runs through—it's kind of a long one. It runs through page 15 up to Section 10. Questions, comments. Again, this is page 5 starting with Section 3 and running up to Section 10 on page 15. This is a large section. Seeing no lights yet, I will jump in at—Council Member DuBois.

Council Member DuBois: (inaudible)

Mayor Holman: I'm sorry. That's Council Member Kniss. Council Member Kniss, pardon me.

Council Member Kniss: Looking at—sorry. On page 15 just above where we're going to end, where you see the HIE and which we discussed earlier and talked about, let me have you talk a little more about that, Jonathan, before we get into it. I want to ask some more questions about it.

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Mr. Lait: Thank you. This language that you see—we're looking at 18.12.120?

Council Member Kniss: We are.

Mr. Lait: All of this is existing language that allows a homeowner to seek a minor exception from the provisions of the Code. No changes are being made there. There are some standards that apply that if you're going to ask for this, the project must maintain 75 percent of the exterior walls. That's an existing finding of fact that needs to be made. All we're trying to do is clarify, amplify that provision with the underline here that says including exterior siding or cladding. To reinforce the idea that we don't want to see the stucco, the siding, all that stuff come off. You have to leave that in place to qualify for this exemption.

Council Member Kniss: Because this looks to me as though this is a conforming house to begin with, we're not looking at something that has a variance. Correct?

Mr. Lait: No ...

Council Member Kniss: The complaints we've heard from SILVAR, you're indicating do not apply to 18.12.120?

Mr. Lait: Correct.

Council Member Kniss: Do you want to say just a little more about that? That's one of the areas that I think we've heard a lot about.

Mr. Lait: The SILVAR letter is related to page, I think it's 388, in Attachment E, dealing with the substantial remodel. I think the way the Mayor's approaching the grouping here, that would be one of the latter topics that we would discuss, but I'll look to the Mayor and the Council to decide how you want—if you want me to talk about that item now, I can talk about it.

Council Member Kniss: What I wanted to do is make sure that we knew this wasn't the one that was included.

Mr. Lait: This is clearly not (crosstalk).

Council Member Kniss: This is conforming. This doesn't go into the variance aspect of it. This does not address that question that SILVAR has put to us.

Mr. Lait: Correct. I spoke with the author and we had a very lengthy conversation. This is not a dispute. I've not heard anybody challenge or question this.

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Council Member Kniss: Thank you.

Mayor Holman: Council Member Scharff.

Council Member Scharff: I guess I'll challenge or question it, since no one's done that. First of all, just so I understand this. This is for someone who has a house where they want an HIE or they have an HIE in the past. Is that correct? Or the last five years, would that be—who does this apply to?

Mr. Lait: The five-year provision, I believe, is an attachment, is ...

Council Member Scharff: Is not part of this?

Mr. Lait: That's right.

Council Member Scharff: Who does this apply to?

Mr. Lait: Anybody who would seek to apply for an HIE, which is an existing provision in the Code today, no change. This reflects current practice.

Council Member Scharff: This reflects current practice. This is my concern or my question. When you start to remodel your house, it turns out oftentimes that your contractor finds dry rot. At which—this bleeds into the other one, so I'll comment on it as well. Dry rot, in my view, is almost similar to an act of God. The homeowner is not willfully having dry rot. You need to replace your dry rot. I don't see any reason why people shouldn't be able to rip off the walls if that's what it takes. I'm really asking why is there not a dry rot exception in this? It makes no sense to not let people—why would we encourage people not to fix dry rot?

Mr. Lait: You're right, this does begin to blend into the other Attachment E item, but it also touches another section of the Code that we're not touching tonight, that allows for the repair and maintenance of that type of damage. If you have that condition that you've described, you can repair it (crosstalk).

Council Member Scharff: What you're really telling me is—I just want to make sure that I understand it. We're adding including exterior siding or cladding which was what wasn't there before. You're saying that codifies existing practice, but existing practice is also that if I'm making this HIE—you get the contractor out once. The contractor finds a bunch of dry rot. You usually tell the guy go ahead, fix it. They have to tear off the walls to do that often, sometimes the exterior cladding. I mean, that's sort of how they do it. You're telling me that somewhere else in our Code it allows them

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to do that even if it means taking off the exterior siding or cladding. It could be more than 25 percent.

Mr. Lait: Right. This typically is for a smaller-scale project than the other type of project that we're trying to address with Attachment E. We've not seen it go substantially beyond the 25 percent. I think there's enough wiggle room for us here to do what a homeowner and the City would expect us to do. We're not so narrowly focused in on that 25 that, if you've got dry rot and other damage and you go beyond 25, we're going to be looking at that replacement provision of the Code.

Council Member Scharff: Why are we putting this in here then? You indicated that it hasn't been a problem then, or has it? I mean, a small home improvement exception, you're indicating we're probably not finding enough dry rot to end up taking more than 25 percent down, because we're not doing enough work to come across that. That's what I just heard you say, right? Where has this come up that you feel it's necessary to clarify this?

Mr. Lait: It comes up as almost a spillover conversation from that other Attachment E conversation that we're having about the larger home remodels. As we have that in the back of our mind and flipping through the Code about the other changes that we want to make, we saw this as an opportunity to just clarify our practice. I mean, we feel a lot better when we've got something in the Code that this is what is meant. We know that we've already enough challenge with the remodels that we're trying to solve a problem before it exists.

Council Member Scharff: It hasn't existed to date?

Mr. Lait: Let me look to Amy. Have we had a dispute about this issue?

Council Member Scharff: I'm really only concerned about the dry rot. I feel like what we're doing is we're locking people in if they do find dry rot, that takes away your flexibility to say fix your dry rot.

Mr. Lait: I think it's ...

Council Member Scharff: You've told me there's another part in the Code that allows you to do that, but then you have this. I'm just concerned that—I'm not getting a clear sense of where we are on that.

Mr. Lait: For the HIEs, again reflecting current practice. I mean, I think this is a conversation that really takes place on that Attachment E item, which is a big issue. There's a lot of competing policies at play there. I will tell you

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that for an HIE, that type of a project is retaining 75 percent of the home. If that starts bleeding into 50 percent, that's not qualifying for the HIE anymore. If it's 25 percent, that now goes into 26, 27, 28 percent because you've got dry rot that is documented, we can work with that. It's the project creep that we need to be mindful about and that we try to control.

Council Member Scharff: I guess I'm not sure I agree that if you tear down—if you take off the walls but you rebuild your house exactly the way it was because you've replaced the wood because the wood was rotten, are you not really encouraging keeping the existing house?

Mr. Lait: Again, I ...

Council Member Scharff: If it looks like the same when you put it back ...

Mr. Lait: Again, I ...

Council Member Scharff: ... like you open it up, you put it back. Why is that a—I don't understand why that's a negative. I don't understand why there's any issue there, I guess. This may not be—what you're really telling me—think about it so I understand it. This has not been a problem. In looking at the other one, you saw this in here and you decided to set a clear standard because, at some point, this could be a problem. I raised the issue of dry rot, and I guess I haven't gotten a clear answer. If someone finds a bunch of dry rot in their house and they're doing an HIE, does that mean they have to stop fixing that dry rot? Often dry rot goes like this. You start with a small amount, you hope it's contained, you open the wall, and it just keeps continuing, and then your contractor says you might as well take off the whole wall and fix it while I'm out here. Otherwise, there's no other way to fix it and it'll continue to rot. If you don't fix it, it's a problem. I guess I'm trying to figure out—it's not safe to have houses that are falling apart internally.

Mr. Lait: Just a brief response. I think that those are great questions that really we need to hash out when we talk about the Attachment E-1. We don't see that problem with HIEs.

Council Member Scharff: If I approve this now and we come to a different conclusion on the other one, how does that affect my voting on this now?

Mr. Lait: I would say it doesn't have any effect, because we're just ...

Male: (inaudible) isn't a practice.

Council Member Scharff: I'll let someone else talk.

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Mayor Holman: Council Member Wolbach.

Council Member Wolbach: Looking at page 5 of the draft ordinance, 18.01.025, Zoning Code interpretation. I guess my big question is why couldn't those interpretations, once created by the Planning Department or the Planning Director, why couldn't they come on Consent to Council after the interpretations have been drafted by the Planning Director? Just to make sure it's been seen by the public in a more visible way and give us a chance to weigh in if we want to. Would it just be a hassle to create the Staff Report or would it be easy to amend this to add "and it would come to Council on the Consent Calendar" just essentially to sign off on it?

Mr. Lait: I would say that certainly it could be drafted that way. I will tell you that it takes us five weeks for the review process to get something presented to the City Council. That's not even the time formulating the idea and getting the opinion and drafting the decision itself. If somebody's coming to us with an interpretation of the Code and it's going to take two or three months to have it go through Consent, and then—I think that's a long process to get a response. We want to be timely and responsive, and I don't think that kind of an interpretation process qualifies for either of that. I will say that it is important for the Council to know the types of interpretations that are taking place. In fact, we're talking about formal interpretations that are written. Perhaps there's a system involved where we can email the—when a determination is made, we can get notification to the City Council via the City Council mailbox or whatever the appropriate mechanism is, so that the Council Members are seeing here's an interpretation made by the Director. That way you become aware of it the instant it happens.

Council Member Wolbach: I'm hearing what you're saying. It's basically an efficiency thing. That's not just for Staff, it's also efficiency for whoever is working on the project. This would be for larger or small projects including somebody's individual home that they think is a remodel that shouldn't be problematic. Let's say they need to get some interpretation approval from Planning Director to move forward. You're saying that one of the challenges, if it had to come to Council on Consent first, is that might delay their home remodel by a couple of months. Right? Am I understanding correctly that that's one of the concerns?

Mr. Lait: It would take at least five weeks and more like two to three months to get that interpretation calendared for the City Council's Consent.

Council Member Wolbach: Currently Planning Department and Planning Director do those kinds of interpretations under existing practice?

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Mr. Lait: I would say that we are—there's a wide range of interpretations that are made on a daily basis. There are simple things that we do frequently. What we're trying to capture here are those items that it doesn't fit cleanly into the intent of the Code or we're trying to understand or make the intent of the Code apply to a particular situation. We do not have a process in place now where we formalize that interpretation, where we make it available to the community and create an appeal process that exists. Right now, the process would be we'd do our best to figure it out in consultation with the Planners and other colleagues and the Attorney's Office, and we would make a decision. That's the process today. There's no transparency there. There's no opportunity for appeal of that. Those are decisions that take place at the counter and as we're reviewing. What we're trying to do is make it more transparent. We're trying to create that process. We want to post it on our webpage. If our systems are not as efficient, then we probably won't be producing as many of those types of interpretations. I can foresee now it's going to be this "I don't want a formal interpretation, because I don't want the two months to get an answer." There may be project modifications or some other type of activity that takes place.

Council Member Wolbach: I'm not going to make a Motion on it right now, but I think this is a really important question and point. I'd really like to hear from my colleagues about this also. I really see where you're trying to go with this, and I really appreciate that. We're trying to create a little bit more transparency and more consistency and clarity, which is good for the Staff, it's good for the Council. I think it's good for applicants and it's good for neighbors around a potential project, again whether it's a big or a small project. I think that that's a good direction to aim for. I've heard and I share some concern about making sure that it really is transparent in a very good way. I guess one other possibility might be that things are done as an interpretation, it's posted on the website, all that, and approved. For that person who's asking for that interpretation that first time it comes up, maybe at that point their own project wouldn't be delayed by having to go to Council, but perhaps as a follow-up before it becomes precedent for the future, maybe in that case we'd want to have it come to Council on Consent for approval. I'd be curious to hear what my colleagues would think about that or is this—I would just like to hear thoughts from others about that. Again, not ready to make a Motion on it, just trying to play around with the ideas here and see if we can create a really good practice.

Mayor Holman: Thank you. Council Member DuBois.

Council Member DuBois: You covered my first item almost exactly. On interpretations, I appreciate we're codifying what we do today. I too was

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concerned, I think, about the public notice portion of just putting it on the website. I also, I think, liked the idea from the audience and from Council Member Wolbach of following up with Consent. If there was a process that posted it more broadly, I think in the traditional way, kind of using postcards and also the website, maybe Nextdoor, and there's a 14-day appeal process and then it was approved for that applicant, but then maybe as these came through, it would go on Consent and it would just become approved before it becomes kind of codified, if you will. That's on interpretations. On the ADA language, the Staff summary was good. I wasn't sure that the legal language actually says what we want.

Mr. Lait: I'm sorry. If you can just direct us to a page.

Council Member DuBois: It's on page 7 of Attachment A, "b," kind of the second sentence. It says for the purposes of this section, disability-related upgrades are limited to the minimum extent necessary. It seemed like the intent was really more about a delta between, say, a non-ADA bathroom and then an ADA bathroom. I actually thought maybe some delta language there would clarify what that means.

Mr. Lait: If this is an appropriate time, we were noodling some other language for that minimum extent necessary. Can I read some language that would replace that as a possibility?

Council Member DuBois: Yeah.

Mr. Lait: This would pick up on that new underlined section where it says "for the purposes of this." Just for clarity, we're on packet page 263 at the top of the page, "b." It says ...

Mayor Holman: Jonathan, it might be good also to say it's ordinance page 7. Some of us are looking at different things.

Mr. Lait: Thank you. Ordinance page 7. The underlined section that begins with, the second line, "for the purposes of this section." We would add a comma. "For the purposes of this section, disability-related upgrades are limited to the incremental square footage necessary to accommodate disability access." Striking "minimum extent necessary," and picking up from there. Does that better reflect your interest?

Council Member DuBois: That gets to exactly my (crosstalk).

Mayor Holman: Could you repeat it one more time please, Jonathan?

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Mr. Lait: This would be striking the words "minimum extent necessary" from the sentence here. "For the purposes of this section, disability-related upgrades are limited to the incremental square footage necessary to accommodate disability access and shall be subject to" and it continues.

Mayor Holman: Thank you for that.

Mr. Lait: Thank you.

Ms. Silver: Madam Mayor, I would also note that that same language also appears on page 23 of the ordinance or packet page 279. We would propose including that same modification there.

Mayor Holman: Thank you.

Council Member DuBois: This next comment is kind of a big one. The next paragraph there, "b, v," on page 7 of the ordinance. Again this is in the definition of FAR exemptions. As I read through these, I think a lot of these exemptions today are market driven. Companies want to put these things in to compete with other companies. I'm not sure that we need to exempt them anymore from FAR. I think there's a separate discussion about parking, and you guys did something interesting even though it's taken out right now for the rooftop restaurants where it didn't count for FAR but it counted for parking. It struck me that that could apply for a lot of these amenities as well.

Mayor Holman: Council Member DuBois, are you suggesting that we put these on a parking lot for Staff to come back with?

Council Member DuBois: Yeah, I mean if colleagues agree. I think, again, the one that I think deserves an FAR exemption is daycare. I think we have a shortage of daycare. Again, we don't necessarily have a shortage of laundries or ATM machines or cafeterias or gyms. Again, employers could still build those to be competitive in the market, and maybe they get a parking—they don't have to park those. I'm not sure that they need to be excluded from FAR. Again, that's a big topic, so it should maybe go in a parking lot. I'll keep going. The next one was interpretation of land use classifications. This one, I think, is—it's on the next page, page 8, 18.08.80. This is kind of like interpretations, but I actually saw this one as a bigger item. I kind of had the same response that I think again if there's a small request and you guys have a way to approve it and not hold up the applicant, but then it should come to Council maybe on Consent before it gets codified. Maybe there should be an Action Item kind of once a year to update land uses, so that we're kind of staying more current. Separate from that we had a recent discussion about appropriate land uses Downtown. I'd

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still want to have that discussion. I think that's an important discussion to have. Again for tonight, I think for both interpretations and use classifications, I'd really be interested in more broader public notice and some method for it to come before Council. Moving on. The noise-producing equipment, I'm not sure if it belongs here. Somewhere I saw an idea that kind of—encouraging placement in basements if possible. I thought that was a nice idea. I don't know where it belongs. I had a question on page 10. The table heading changed from summary of gross floor area for low density to single family, and then on the next page or a couple pages, page 13, it was kind of a similar change where kind of low density residential zones were mentioned in the parking. That changed to just R-1. I wonder if you could explain those changes and what that is.

Mr. Lait: If I can back up—did you want a response on the basement or the noise-producing and why basement wasn't necessarily something that we were exploring?

Council Member DuBois: Sure. Again, I was just saying it's an option.

Mr. Lait: Sure. What we're trying to do with this is the mechanical equipment is already in place; it's already got the infrastructure to support that a/c unit, for instance, are all there. Typically people ...

Council Member DuBois: Just want to replace the unit and not replace all that other stuff.

Mr. Lait: Exactly. The unit's ...

Council Member DuBois: I get it. I was just ...

Mr. Lait: We always look for opportunities to replace it. Actually the Code itself does talk about the feasibility of it. Right before we added the insertion there, any replacement of such equipment shall conform to this section where feasible. It kind of even gives it an out right there. We're just trying to be a little clear about it. As far as the table heading change, on Table 3 at the bottom of page 10 ...

Ms. French: Low density is the—Amy French here. Low density is the name of Chapter 18.10. That's R-2, RE, RMD zones. It's a typo. We're in the 18.12 chapter which is R-1, otherwise known as single family, zone.

Council Member DuBois: For that one, it was meant to mean R-1, and now it doesn't?

Ms. French: It was just a goof, an error in the table title.

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Council Member DuBois: Is there another table that is the other low density zones?

Ms. French: Yeah. We're not in that chapter right now with this change.

Council Member DuBois: The other part of that was on page 13, 18.12.60, parking. The other zones were struck. Is that because they don't apply in this chapter?

Ms. French: Correct, another cut and paste problem, I think, from the earlier update back in 2005.

Council Member DuBois: You're telling me there is another chapter that applies to those zones?

Ms. French: Yes. It's Chapter 18.10.

Council Member DuBois: Got it. Thank you for that clarification.

Mayor Holman: Council Member DuBois, can we come back to you or are you just about done?

Council Member DuBois: I am just about done. Actually, I think I'm exactly done, just to point out to Commissioner Scharff that in Attachment E there is a dry rot exclusion, if you want to look at that and see if it covers what you want. It's in there.

Mayor Holman: Vice Mayor Schmid.

Vice Mayor Schmid: One quick comment and one question. Back on page 5, we talked about that Zoning Code interpretation. Halfway down, there's an important sentence that says the interpretation shall become effective, shall become the standard interpretation for future applications. It implies it's very important. Anyone out in the community at some point might want to be aware of it. How do you reach them? How do you make it transparent? Putting it on the City website is one thing, but I know there are difficulties in finding what you want to find on the website. I wonder if it might be useful to have a quarterly information report to the Council. I don't know how many of these you get, but there are probably more than one or two that come. A quarterly report to the Council, an information item, would make it public, make the Council aware of it, and maybe at yearend it makes a nice annual package that could be put together. I think something like that might be very helpful in transparency. On page 7, one quick question. The last paragraph on that page, Item 5 says in R-1 zones these are excluded from gross floor area. The less than 50 percent enclosed, so if it is 50

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percent enclosed, it's not excluded from floor area. I know elsewhere you've made a ruling about exterior walls. At what point does a porch become an exterior wall? Is it 50 percent covered?

Mr. Lait: Is the reference to exterior walls in the basement definition?

Vice Mayor Schmid: Yes.

Mr. Lait: A porch would not be construed as a—the portions of the porch open to the elements would not be construed as exterior walls.

Vice Mayor Schmid: An exterior wall is covering 90 ...

Mr. Lait: It's the exterior walls of habitable space is a way of looking at it. The exterior walls of the building would be the exterior walls to the habitable space inside. If you have a recessed porch or a corner cutout of a porch, if a corner of your house is notched in like for a recessed porch, the exterior wall would be the wall, not the porch.

Vice Mayor Schmid: On the porch.

Mr. Lait: Not the porch.

Vice Mayor Schmid: How much has to be covered? I mean you have a nice window there.

Mr. Lait: I'll let Amy speak to the percent coverage. I wanted to make clear the distinction as it related to basements. To the 50 percent.

Ms. French: If it is gross floor area, if it's considered floor area, this kind of thing, it still doesn't mean—if you're talking about basements—that that's a place to put a basement.

Mr. Lait: It's not a (inaudible).

Ms. French: Right. No, but I think it's relating back to that. Am I right? Okay. If you have a porch that has partial walls, that's going to be 50 percent open. It might be more than 50 percent enclosed. Still it's not considered a wall that encloses interior, heated space. It's still a porch. As it relates back to footprint ...

Vice Mayor Schmid: It is a different definitional issue.

Ms. French: Correct.

Vice Mayor Schmid: Thank you.

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Mayor Holman: Council Member Filseth.

Council Member Filseth: Thank you. The first thing I want to do is add my voice thanking Staff for starting the systematic process to tackle this chimera here. I think what you're doing now is good. I think the idea of an annual visitation of this is an excellent idea. I want to thank you very much. Thank you, Director Gitelman, for initiating this. I also want to thank Staff for reworking the language on the building envelope. With that said, I had a couple of questions on page 7. The first one, I just want to make sure I understand Item 5 which has to do with FAR exemptions. All we're doing here is reclassifying dry cleaners to onsite laundry facilities. Is that right?

Ms. French: We're just changing the name from dry cleaning to onsite laundry.

Council Member Filseth: The whole issue of which of these FAR exemptions make sense and which may have outlived their usefulness, we're going to visit it at a later time? Okay. Then I had a question just about the end of Part C, low density residential inclusions and conditions.

Male: Where is that?

Council Member Filseth: It's on page 7. It says low density residential inclusions and conditions. We define gross floor area residentially here to be measured to the outside of stud walls. I was just going to ask the question, not necessarily this is wrong or right. Is that the right place to measure it and how do you actually know where the outside of the stud walls are? Isn't that sort of hard to find? Is that consistent with elsewhere? Should it be stud walls or should it be the exterior walls?

Mr. Lait: I would say that—you're looking at "C" here?

Council Member Filseth: Yeah.

Mr. Lait: When we're looking at—siding material varies in thickness. When we're looking at plans, the common practice is to measure from stud wall to stud wall. That's just how architects design it. That's the ...

Council Member Filseth: You can see it on the plan.

Mr. Lait: The thickness of the stucco and all that stuff may add another inch and a quarter. We've not in the past looked at that as part of gross floor area. We're just measuring from the stud wall.

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Council Member Filseth: Of course. Where this comes up, you have the plan. You don't need to actually go out and measure it or something like that. Thanks.

Mayor Holman: Council Member DuBois, it appears you've come up with something else?

Council Member DuBois: I was going to try a Motion if nobody else had any comments.

Mayor Holman: I hadn't had a chance yet, but I don't think I have anything that you guys haven't covered. I do have one. If you don't mind, can I ask a couple of questions first?

Council Member DuBois: Sure.

Mayor Holman: I had asked about—on packet page 21, for instance, under 18.15.100. Fifty-nine years for modern income units and at least 55 years for low and very low units. Did Staff come up with a response to why the difference? Is that the maximum we can require by State provision or what is the ...

Ms. Silver: Yes, it is. I think that deals with the next batch of items. We're skipping ahead, but yes, that is the restriction that's required by State law.

Mayor Holman: Sorry, I had this as the end of Group 3. Sorry about that. Let me just see if there was ... Yes, there was another one which was a question having to do with—on ordinance page 6 under 18.04.030, definitions, A53, facility. Is facility—I asked this the other day. Does facility mean a structure, a building or the combination of structures, buildings on a parcel? How do we define facility when there are multiple structures?

Mr. Lait: Each building is part of the facility. Under definitions, the definition of facility—again, it's not a definition we're changing—it's just, one, to provide for context. I mean, this actually is the definition of facility in our Code, and maybe we need to revisit it. It is a structure, building or other physical contrivance or object. It's that which is on the parcel.

Mayor Holman: Just looking to see if that was something we wanted to put in the parking lot or not. I think my other questions have been added. Council Member DuBois, back to you if you have a Motion.

Council Member DuBois: The Motion would be to approve the changes in Group 2 with Staff's suggested changes to the ADA language and with changes to the Zoning Code interpretation and the interpretation on land

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uses in order to include a process to bring changes to Council quarterly for approval.

Council Member Wolbach: Second.

MOTION: Council Member DuBois moved, seconded by Council Member Wolbach to adopt Ordinance changes in Group 2 with Staff's suggested changes to American's with Disabilities Act (ADA) language, and with changes to Zoning Code Interpretation and Interpretation of Land Uses in order to include a process to bring changes to Council quarterly for approval.

Mayor Holman: Do you wish to speak to your Motion?

Council Member DuBois: I'd just ask Staff if that is clear and it makes sense in terms of the work flow we talked about, which again would be not to hold up any applicant, to proceed with a 14-day process.

Mr. Lait: The quarterly report is to report back as an information item to Council what interpretations we have made over the previous quarter period.

Council Member DuBois: I'm suggesting actually, I guess, a Consent item.

Mr. Lait: As a Consent item. Okay.

Mr. Keene: It's not in Consent; it's an informational report, so no action is required by the Council. Obviously ...

Council Member DuBois: The discussion was, again, not to hold up the applicant, to make that decision for that applicant. Before it got codified as a practice, it would actually go to Consent and be approved. If we were changing a land use classification, for example, quarterly it would go through as a Consent item.

Mr. Lait: Again, it would be awkward for us to make an interpretation for one applicant, and then come back with a quarterly Consent Calendar item. There may be other provisions that we're addressing in that period of time. We would be applying that same interpretation.

Council Member DuBois: Right. My understanding is this is happening today. It's just not being written down formally.

Mr. Lait: That's right. The practice that we're presenting to you is sort of the best practice for how you would address these items. The nuance that I think we're talking about is the Council wants to have an opportunity to endorse in some way the interpretations that are being made which ...

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Council Member DuBois: Yeah. I think, again, it's ...

Mr. Lait: I'm just trying to figure out ...

Mayor Holman: Council Member DuBois ...

Council Member DuBois: Council Member Wolbach wants to speak. Yep?

Mayor Holman: Let me see if I can offer that might help, and then we'll go to Council Member Wolbach. We talked about earlier having an info item come to Council. What Staff is saying is if it's an info item that is languishing or delayed, then we're in a situation where one applicant might get one interpretation, then we might change it after that application. Do I understand correctly?

Mr. Lait: You read me correctly, but the City Attorney has another concern.

Molly Stump, City Attorney: An info item is informational. As I understood Vice Mayor Schmid's suggestion, it was an additional way to bring forward what has been the administrative interpretations that have come into play during the last quarter. Bring them forward to the public and to the Council for informational purposes. If the Council wanted to make a change in the way that the law had been defined to mean and applied to projects, the way to do that is to amend our Code. If I could offer this? If the Council is concerned about the process that's being proposed here tonight, I think one thing we could all agree is that it is clearer, more explicit and more transparent than the current situation. If Council was interested in approving it by amending the ordinance as recommended, you could also put it on your Tier 2 list to revisit. If you wanted to take another step and take more control over that level of administrative interpretation because you felt it wasn't working well, you could make that Code amendment at some point in the future. What's being proposed to you tonight is a very standard process. I think it's quite true to say that in an area like Planning where you're applying general laws to specific projects over time, it's impossible to anticipate every single detailed issue that will come into play in applying the law. You want to give some ability for your Staff to do that. They're proposing good government transparency provisions that will surface that and make it consistent for other applicants, and then provide the opportunity for a change. Nothing the Staff would ever do would change the law, because we know that that's not permissible. If an issue needs to be addressed in a way that the Staff thinks would require a change in the Code, they cannot do that administratively. They have to come back to the Council.

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Council Member DuBois: I'm not sure you were listening when I spoke, because I think you were moving up at that time. I think Council Member Wolbach suggested this idea of Consent or some active affirmation. I did as well, separate from ...

Ms. Stump: Yes.

Council Member DuBois: ... what Council Member Schmid suggested.

Ms. Stump: I did hear that. I understand there's a diversity of views on this subject.

Council Member DuBois: I also said, like, around the land use discussion, like we recently talked about, what are permissible land uses Downtown. We said we we're going to try to have a follow-up conversation on that. I would like us to continue and have that conversation. Again, I think for minor changes to classifications and interpretations, what you're saying makes total sense. Is there a way we can distinguish between major and minor?

Ms. Stump: Major items should not be handled through this administrative process. They just shouldn't.

Council Member DuBois: Right.

Mayor Holman: Council Member Wolbach, do you care to speak to your second?

Council Member Wolbach: Yeah. I think what we're moving towards here actually works pretty well. Having it come to Council for—I guess, maybe approval is the wrong word—at least for Council review. It's not just on the website if somebody needs to go look for it. It's coming to Council for review. If the Council or if a member of the public sees then—hopefully they've gotten a chance to see it during that 14-day period, but also when it comes to Council for review, that's another chance to publicize these interpretations that get made by the Planning Department which they have to do through the course of their work. That would then be an opportunity for us to say we're not comfortable with that. Let's get something on the agenda to change that. Let's get something on the agenda, maybe in our end of the year Code cleanup to change the ordinance to perhaps contradict a decision that the Planning Director had made. That provides the publicity, the clarity and bring it to Council's attention in a way that we're not currently doing, and would still go further than what Staff had proposed coming in this evening. I would actually be okay, I think, with changing the word "approval" at the end of this to "review."

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Mr. Keene: Let me just clarify the format we use. The proposal of an information report is a formal report that goes in the Council packet. It's public. It's just not designed for you to take a specific action. A Consent Item is an Action Item also; you just don't involve it in discussion. I think Molly's distinguishing between major and minor, even though we could find a way to get into an argument that something is major that somebody else thought was minor. I think the way you're articulating it is reasonable. You want to batch process changes. You don't want to have to review every little decision that is made. Take it out of land use. Imagine everything we do in the City, how the police stop and talk to somebody on the street, how our fire inspectors do fire inspections. They use judgment. Everything we do in the City requires judgment. For the most part, what we hope is that we build up a standard of practice that builds on the way we did other things. The key thing for the Council is to say, if you're seeing a policy change or a direction that's going in the wrong way, to be able to say wait a minute. That looks like something that we'd like to look at how you would change it. We've seen this. You may get one information report and that would be enough. You just may see a series of them over several months, and suddenly you say here's a trend. Your job is really to ultimately change the law or the regulation specifically in a place. I think you'd be inundated if you took (crosstalk).

Council Member Wolbach: I'd suggest a friendly amendment actually to change the final word "approval" to "review."

Council Member DuBois: I'd actually like to change it to formally an information report. If we could say "in order to include a process to bring"—actually if you could just edit the sentence further back. "To bring an information report to Council quarterly."

Council Member Wolbach: You don't need "for approval."

Council Member DuBois: I'm done.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to replace in the Motion, "bring changes to Council quarterly for approval" with "bring an Information Report to Council quarterly."

Mayor Holman: Council Member Scharff.

Council Member Scharff: Thank you. Now you've changed it to that, I think it's a good Motion. That was actually my concern, that it didn't really make sense to have us put it on Consent and go forward with it in that way. Having an informational report will actually allow us to see what kind of

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changes and interpretations Staff are making. I don't mean to say this negatively about Staff, because I actually don't believe this to be true. If we perceive Staff to be running amok and making changes and stuff that we disagree with, at that point I'd actually put it on Tier 2 and say let's look at a better process. This is clearly a better process than what we have now. Let's not make—what's the old saying? Let's not make the perfect the enemy of the good. That's the perfect saying. I think this is good. I think the quarterly report allows us to take a look at it, get to see it. The only thing I have to admonish Staff is there's a lot of quarterly reports that you guys have to do. I think this is one of the more important ones. Let's just make sure we do actually get it on a quarterly basis and it's prioritized.

Mr. Keene: Maybe we could trade some of those quarterly reports for this one.

Council Member Scharff: I'll put that in the parking lot as a general thing. If you went through all the quarterly reports, a lot of them, I think, are completely unnecessary. I'd be surprised if every Council Member reads them.

Council Member Berman: Every one.

Council Member Scharff: Besides Berman, who reads every one.

Council Member Filseth: Every day.

Council Member Scharff: Every day. In fact, I heard he quit his job just to read these reports. That's what I have.

Mayor Holman: I'm so sorry, Marc. I have one, maybe two amendments to the Motion. One is the grandfathered facilities. I started to look this up. What page ...

Council Member Wolbach: (inaudible) on page 6 of the (inaudible).

Mayor Holman: Is it on page 6 of the ordinance?

Council Member Wolbach: I see it on page 6 right in the middle.

Mayor Holman: I'm looking for the building envelope language that Staff had proposed. Where are you?

Mr. Lait: Mayor, that might be in 18.18, a further chapter. A group ...

Mayor Holman: Maybe it's in one of the other lumps, one of the other groups. It is in the other group then. Thank you for that. On the Zoning

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code interpretation which is referenced here in the Motion. This is much better, but I still have a question for Staff. When in the opinion of—it's the fourth line down on ordinance page 5, under Zoning Code interpretations. When in the opinion of the PCE Director a formal written decision is warranted, the Director shall make the written decision available to the public by posting it on the City's website. My question is how will the public know that's where to go look? Will also notification cards be sent out to people within the project radius? If we just put something on the City's website, people have to know to go look at the website to see where this is.

Mr. Lait: As I understand the conversation before, I think that was one of the things that we were trying to address which was to make it more public. With the quarterly reports, that's another avenue in which we would let the community know. No, the idea of noticing is not proposed.

Mayor Holman: A quarterly report doesn't let people who have potentially concerns about a project, it doesn't advise them of what the interpretation is.

Mr. Lait: Again, I think what we're trying to do is balance—as it was said, we make interpretations daily. It's what we do. Right now, nobody sees it. What we're trying to do is create a process, where a formal determination is required, to make that available. Again, we're not changing the language of the Code. All we're doing is ...

Mayor Holman: Understood.

Mr. Lait: ... trying to apply it to the particular case. If we felt that it had a broader implication that there was going to be—while we may always find somebody who doesn't agree with the interpretation, if we thought we were making wholesale changes to the Code, we wouldn't use the interpretation as the avenue to bring it.

Mayor Holman: I do understand. It's the major/minor question. We've had situations where we've vacillated back and forth. For instance, whether seismic bonuses are for buildings we take down or not. That's a pretty significant discussion, but it's never been brought forward until now. Thank you for doing that. How do we get that kind of interpretation in front of the public except for quarterly?

Mr. Keene: I hate to say it—I mean I'm assuming we're talking mostly about minor issues here, right?

Mayor Holman: Mm-hmm.

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Mr. Keene: Although again, somebody may say what you say is minor is not minor; it's major. Actually that probably differs amongst Council Members even and between Councils from one era to another. I think what you want to do is you're saying on top of everything else that we do, we do want a way to see these things that maybe are below the waterline typically. Within the course of a quarter, we would look at them. Now even if we somehow put out something in a way that was more effective, that doesn't necessarily mean the public has the opportunity to intervene with a decision that's not only already made but needs to be made. It strikes me as a different conversation that goes beyond Planning, which is to say we should talk about this. What are different avenues for how we want to communicate and engage with the community, say, beyond just putting something on the website? For example, even just the idea of should we send out a geographic notice. The fact is there's nothing that says immediate geography includes who's most interested in an issue. We have many people who come and speak to the Council who are not just an immediate neighbor, but just have a Citywide interest in something. Secondly we have the same issue even with the AlertSCC program which is if we deluge people with too much information sometimes and they're not interested in it, it actually sort of has a negative impact about people paying attention. It just sounds like to me it's a concern you have about ensuring that people know about stuff, but I don't know that we could solve that piece of it right now in this piece.

Mayor Holman: I don't know what the exact answer is. I just do note that in this language it says the interpretation shall become effective 14 consecutive calendar days from the date of posting unless appealed under this section. That indicates that we expect people to be able to identify the interpretation and within 14 days will have the ability to appeal. There seems to be a disconnect between informing people and allowing for appeals. That's what I'm trying to resolve. I apologize; I'm struggling with this. I don't have a good answer for it.

Mr. Keene: How about if (inaudible) Twitter and people can sign up for Twitter, and we'll tweet every time we make a decision. Seriously. Dump it into someone's Twitter feed. If they're interested, they sign up and follow.

Mayor Holman: Council Member DuBois, would you be interested in that? If someone wanted to sign up for notifications.

Council Member DuBois: Mayor, if there's an interpretation around a project, then all the notification would happen for the project. There would be two things happening usually. The interpretation and then the actual project itself.

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Mr. Lait: What we can do with—I can answer that question. Also, let me just—so we have an idea of what we're talking about, like the scale of what we're talking about. A good example of where we would put forward a written interpretation is this issue that we're trying to resolve with the basements and the exterior walls. That's an example of a written interpretation that we would see. It's not the kind of thing that—it needs clarity because a lot of houses are being built with basements, so we need to have a predictable way of addressing that. That's an example of the way we would approach it. If we were dealing with a project that relied on an interpretation that we were making, I suppose we could include some language in our determination letter that said there was this determination that was made and have access to that so that people who receive that notice or who receive the notice of a final decision at least could be made aware that there was an interpretation.

Council Member DuBois: I guess I'm suggesting that a project comes up, it raises an issue. You guys make an interpretation; you follow this process for the interpretation, but then you're still following the existing Code for the project which would require notification to people (crosstalk).

Mr. Lait: The existing Code certainly would require project. I would also say that we're probably not going to be doing a lot of written determinations. Again, most of the determinations that we're going to do are probably going to be minor determinations that we make at the counter. It's part of our everyday function. The written determinations are not going to be—there's not going to be a lot of them. When we do do it, we want to have a place to post it, advertise it, make it available and give people a chance who want to be informed about that a chance to appeal it. It may not be great, but it is better than what we have now.

Mayor Holman: Not to beat this dog anymore, but just one last stab at this. Council Member DuBois and for Council Member Wolbach too, would you accept a friendly amendment to indicate that basically what Jonathan has said is when the Staff Report is written on a project that requires an interpretation—where a formal written decision is warranted, that the Staff Report will include description of that interpretation?

Council Member DuBois: Is Staff comfortable with that?

Mr. Lait: Yeah. We want to make a distinction that it's a formal written interpretation.

Mayor Holman: That requires a formal written interpretation, that that will be identified in the Staff Report.

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Mr. Keene: That requires a formal written interpretation?

Mayor Holman: Requires a formal written interpretation, that's the language that's in the proposed language here.

Mr. Lait: I might even say when the formal written interpretation as required by 18.01.025 is required for a project, that we include that in the Staff Report. That's the new section that we're adding.

Council Member DuBois: I'm okay with that.

Council Member Wolbach: I'm not sure I'm okay with it. I'm not clear on something. It seems a little bit redundant. Which Staff Report is it that you're talking about?

Mayor Holman: A project Staff Report. When a project Staff Report is written that requires a formal written interpretation as referenced in 18.01.025 then description of that determination will be called out in the Staff Report.

Council Member Wolbach: I guess I'm just not sure that that needs to go in our Motion tonight or that it needs to go in our ordinance. I guess I would hope that it would be included in the Staff Report anyway as an attachment. If it's felt that we need to include that in our Motion tonight in order to make sure that future Staff Reports include an attachment of that written interpretation, I guess that's fine. I just want to make sure that we're not being redundant and unnecessary.

Mayor Holman: Council Member DuBois, are you accepting that amendment?

Council Member DuBois: Yeah.

Mayor Holman: Council Member Wolbach, are you accepting that?

Mr. Keene: Be sure that Staff is understanding (inaudible).

Council Member Wolbach: That's actually what I was about to ask. Does Staff see that as necessary or redundant based on the first paragraph of the Motion?

Mayor Holman: I think it's what Staff said that they could or would do. It's not part of the process now; it's just an interpretation. It's not called out as an interpretation.

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Mr. Lait: With this second paragraph that David's typing, are we looking to codify this language as part of the ordinance?

Mayor Holman: Yes. That's again trying to provide the transparency.

Mr. Lait: I might want to just think about it for a moment. Let me ask this question. Is the decision document that we produce, what we call a record of land use action, an appropriate forum for that or is it the Staff Report? We may not have a Staff Report for everything. For, like, a conditional use permit, for instance, which goes to the Director, there's no Staff Report that's prepared for that unless it's appealed. I don't know that Staff Report is what you want to tie it to if you're interested in that. Basically that would be ARB.

Mayor Holman: Good point. If you can up with a better vehicle that would carry that.

Mr. Lait: I think it would be when a decision on a project is made that requires a formal written interpretation.

Mr. Keene: Doesn't that happen automatically now anyway?

Mayor Holman: Huh-uh.

Council Member Wolbach: If I might? I'm not going to accept the amendment. Happy to hear thoughts about it. Might vote for it, but I think it should be a separate amendment.

Mayor Holman: Do you have any suggestion, Jonathan, on how to capture this?

Ms. Silver: My understanding of the intent of this amendment is that you want to try to provide a better way of noticing the public when an interpretation is made. We can tweet it, we can put it on our website, that requires the public to go to the website every day. If people are tracking particular projects, I think it's appropriate for them to be noticed through the standard channels. If that is an ARB decision that is ultimately approved by the Director, we have a process for notifying people. If it is a Director's decision that is appealed to the Council, that will be highlighted in the Staff Report that goes to the Council. The Council, of course, can override that interpretation. We're not going to limit you to the Staff's interpretation. Perhaps what we are looking for is just the underlying notice to the public that goes out on the entitlement, whether it's a record of land use action or a Director's decision.

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Mayor Holman: A conditional use permit.

Mr. Lait: I think that's great. If we can tie notice of the formal interpretation being made, if we can tie to the existing notification requirements in the Code for that decision for that project, I think that would be ideal. It's our existing system; we're just putting this on as a rider to that.

Mayor Holman: I've spent a lot of time with this. Thank you for your indulgence on this. With Staff's assurance that that process would be incorporated in future decisions, whether it's a CUP or a record of land use action, a Staff Report, whatever, that these interpretations would be called out, then I don't need to have an amendment here. Right now, it isn't in the Code.

Mr. Lait: We can do that, sure. It's nice to have it in the Code, but we can make changes to our templates. Whenever we get this first formal interpretation, we'll be noting that and we'll attach it into it.

Mayor Holman: Why don't we do this? When this comes back for a second reading, if Staff can come up with appropriate language to capture that, then we can ...

Mr. Keene: No, no, can't do that (crosstalk).

Council Member Scharff: (crosstalk) you have to have a second to make an amendment. You can't just direct Staff to go ahead on a second reading and add it into the ordinance.

Mayor Holman: I said perhaps that they could suggest it when it comes back.

Council Member Scharff: That's not really appropriate either actually. What's appropriate is to have a Motion; it's not to be directing Staff from the dais. You know I'm right.

Mayor Holman: As I hear it, Staff has committed that they will include information regarding this in any future determinations.

Mr. Lait: Again, I think there's going to be few of these where this is going to rise to the level of an issue. What I am saying is that when we make a formal interpretation and it is related to a discretionary project that requires notification, we will advise people in the same manner that we notice the project that a formal determination has been made on this project based on a certain interpretation.

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Mayor Holman: That's good then. I don't need the amendment then. We'll see how that works.

AMENDMENT: Mayor Holman moved, seconded by Council Member XX to add to the Motion, when a project Staff Report is written that requires a formal written interpretation as referenced in Municipal Code Section 18.01.025 the description of that determination shall be called out in the Staff Report.

AMENDMENT WITHDRAWN BY THE MAKER

Mayor Holman: Again, thank you for your patience on that. With that, I don't have any other lights. The Motion is Council Member DuBois moves, seconded by Council Member Wolbach, to approve changes in Group 2 with Staff's suggested changes to the Americans with Disabilities Act language which was adding the word incremental language, and with changes to Zoning Code interpretations and interpretations of land uses in order to include process to bring an informational report to Council quarterly. With that, vote on the board please. That is approved on an 8-0-1 vote with Council Member Burt absent.

MOTION AS AMENDED PASSED: 8-0 Burt absent

Mayor Holman: We are on Group 3 which is ordinance pages 15 to 21. Council Member Wolbach.

Council Member Wolbach: I want to be sure that I'm clear. Right now with our basically medium to high-density housing zoning, we don't have any minimums currently in Code. Is that correct?

Mr. Lait: Yeah, no minimum density. That's existing in the Code and we're not touching that.

Council Member Wolbach: There is no stipulated minimums, but the existing Code also does not say there is no minimum. There just isn't a minimum, and minimums aren't addressed at all in the current Code. I'm looking specifically at page 15 of the draft ordinance. The point of this is to codify what our practice has been which is to recognize that even if something is zoned RM-15, RM-30, whatever, you could still do a project that's only one housing unit.

Mr. Lait: Yes.

Council Member Wolbach: I don't know about anyone else; I'm not going to support codifying that. I don't think that that's a great idea.

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Mayor Holman: Council Member Wolbach, this is what the Code is now. I think what you might want to think about doing—I ask the City Attorney to weigh in here too—is ask that minimum densities be brought forward and put on this list of future items to be discussed.

Council Member Wolbach: That is just what I was going to suggest. Thank you for beating me to it. I would suggest that we refrain from establishing that there are no minimum densities. In fact, that we do come back and maybe as a Tier 2 thing for a future discussion, talk about what kinds of minimums or no minimums we want to establish. I would definitely refrain from establishing that policy. I understand it has been the policy, but I don't think it's noncontroversial to formally establish it.

Council Member Kniss: (inaudible) we on page 15?

Council Member Wolbach: Yeah.

Council Member Kniss: You want that left in for now or taken out?

Council Member Wolbach: I think we should not add what Staff suggested adding here. I understand what you're trying to do. I'm not upset that it was suggested. I just would say that it's actually in a couple of places, on pages 15 and 16, the underlined additions that say "with no required minimum density." I would just stick with the existing language and not make those additions. Not making it as a Motion right now, just throwing it out there for colleagues to weigh in as well.

Mayor Holman: Council Member Scharff.

Council Member Scharff: I think what concerns me most in this is not having enough residential projects that are built. Under AB 774, we're talking about only .5 parking space per each bedroom. I think in certain circumstances that could be a real problem, depending on the effects on the neighborhood and parking intrusion and all sorts of issues. Then again, it may not be an issue in certain places. What I understand from this is that it allows Council to increase the parking requirement if appropriate parking study is required. It seemed there were two avenues to this in the Staff Report. One was a project specific or an area specific parking study, and the other one seemed to be a Citywide study. Was that correct?

Ms. Silver: I think that's the density bonus issue. Council Member Wolbach was dealing with the density range.

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Council Member Scharff: I wasn't talking about anything Council Member Wolbach had to say at this point. I was talking about the issue of AB 744 and the fact that .5 ...

Council Member Filseth: Page 20.

Council Member Scharff: Yes, page 20, or 18 in the slides. How's that? Page 20, correct. That was not saying that what Council Member Wolbach was saying was not appropriate; it just wasn't what I was talking about.

Ms. Silver: I apologize. Did you have a question?

Council Member Scharff: Yes, I had two questions.

Ms. Silver: I missed them both.

Council Member Scharff: It's all right, no worries. The question I had was in the Staff Report. It says that we can—it allows Council to increase the parking requirements and if an appropriate parking study is completed which overrides AB 74 if you do the parking study. That's what it seemed to indicate in the Staff Report, and it seemed to indicate there were two possibilities. One was a Citywide parking study, and one was a project. I wanted you to address the differences in the two studies, whether or not we could do this and how that worked.

Ms. Silver: Sure. This is language that actually is in the State law that gives cities an out, if they perform these traffic studies.

Council Member Scharff: Are they traffic studies or parking studies?

Ms. Silver: Parking studies, excuse me, yes. It's not something that specifically overrides the State law, but it gives cities more discretion. The language was copied from State law in order to avail ourselves of this exception.

Council Member Scharff: What I wanted to know was to understand how the exception works. If we don't understand it right now, that's a perfectly acceptable response. I just was wondering, if we did understand it, how it works.

Ms. Silver: My understanding is that a project-specific parking study would not be allowed, that it has to be a Citywide parking study.

Council Member Scharff: What I would really like to be in the parking lot that we've talked about today is the possibility of how those studies would work and how we could start doing that study as soon as possible, so we

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have that understanding, so when projects come to us we know whether or not this is a good thing or whether or not this will increase. As a Council Member here said earlier, he thinks the hotel is over-parked. I have no desire to over-park these projects. I think that by doing this kind of a parking study, we can actually get to whether or not we're over-parking them, under-parking them. I think that's really useful information. I'd like to see that in the parking lot and have us take that up as opposed to not being proactive and having these projects come to us and then being able to use that out and have under-parked projects. With that, I'll actually make the Motion that we move forward with the Staff recommendation on this grouping.

Council Member Berman: Second.

MOTION: Council Member Scharff moved, seconded by Council Member Berman to adopt Ordinance Sections 10-13, modifying Municipal Code Chapters 18.13-18.15.

Mayor Holman: Would you care to speak to your Motion? We have a couple of Council Members out of the room here.

Council Member Scharff: It does happen.

Mayor Holman: Do you care to speak to your Motion?

Council Member Scharff: I'll speak to my Motion briefly. I heard what Council Member Wolbach said, even though he's out of the room right now. Maybe if we vote quickly, he won't (inaudible). I was going to say I think this is a Tier 2 issue of whether or not we impose minimum densities. I don't think we should—we haven't held up other things with the notion of we're going to come back and revisit this. I think we should try and stick to our process tonight which has been we look at the revisions, they codify existing practice. If they codify existing practice, we move forward. Frankly, I think that's how we should do this. I think Staff's done a good job on this, and I think we should move forward on it.

Mayor Holman: Council Member Berman, would you care to speak to your second.

Council Member Berman: Just quickly and briefly. Since I haven't spoken yet to anything, I just want to thank Staff for all the work that you guys did. I'll get to this a little bit later on. You guys have gone through a really deliberate, thorough process here. Outreach and communication to the community has been great, to Council has been great. I noticed Jonathan's not here, so somebody will have to relay this to him when he gets back. I

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really think you guys have been very thorough in the beginning of what's going to be a longer discussion. Frankly, it's only going to get more complicated as we get to the actual complicated issues. I think we're off to a good start. I agree with what Council Member Scharff said. I understand and might even agree with the meaning behind Council Member Wolbach's comments. The bottom line is the rules that currently exist is there is no required minimum. We're just making that more clear for folks, which the Code should do. I have no problem supporting Staff's recommendation.

Mayor Holman: Tom actually had his light on, but given ...

Council Member Kniss: No, that's my light. Sorry.

Mayor Holman: No, actually it was Burt, so it was Tom. Now you have your light on, Council Member DuBois.

Council Member Kniss: I hear what Council Member Scharff is saying, and I would agree with it as we're interpreting this tonight. When the time does come, I think actually what you've proposed, Council Member Wolbach, makes sense. Yes, we were asked to look at this tonight in its current light. As we go forth, I think we should be thinking about what would those changes be when we get to Tier 2. Cory, are you nodding and smiling?

Mayor Holman: Council Member Filseth.

Council Member Filseth: I agree with the process that Council Member Scharff and Council Member Berman have put forward. There are a number of instances in here where we talk about 55 versus 59 years. I understand there's some State law associated with that. Does the State law say it has to be 55 or does it have to be at least 55? Other things being equal, it seems like we should standardize on one if it's possible.

Ms. Silver: Yes, the State law does make a distinction between rental housing and ownership housing. Rental housing needs to be 55, and ownership has to be 59.

Council Member Filseth: Can rental housing be 59?

Ms. Silver: No, it can't.

Council Member Filseth: Ownership can't be 55?

Ms. Silver: Yes, we can bring down ownership if you want to do that.

Council Member Filseth: I don't know. Do you want to make it 55 for everything?

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Council Member Scharff: I'm good with that, if the Council wants to do it. I don't have strong feelings one way or the other. If it's 55, I'll probably be dead.

Council Member Filseth: I don't have terribly strong feelings either, but it seems odd to have both.

Mayor Holman: Are you making an amendment?

Council Member Filseth: Sure, I'll propose a friendly amendment subject to other people weighing in. Why don't we make them both 55?

Mayor Holman: Didn't we already in one of the other sections already do 55, 59 or was it just 55 in the other section? I think it was already previously occurring. Can we ...

Ms. Silver: No, it's just in the density bonus section where we have that 55, 59 distinction. I think from an administrative standpoint it certainly is easier to have the same number for both.

Mayor Holman: Council Member Scharff?

Council Member Scharff: I said yes.

Mayor Holman: Council Member Berman?

Council Member Berman: I'm just taking a quick look, sorry. From an administrative standpoint, I guess I'm okay with that. Yeah.

Mayor Holman: That's accepted. That's for a term of 55 years. For David, this section ... There are a couple of places. It's Section 18.15.040, that's 55 years, which that's right. In Section 18.15.100, it changes under (d)(iv), 59 to 55. Agreed Council Member Filseth? Is there any place else? I think that's it. The City Attorney's occupied. It seems to be just that one place, and we'll have the City Attorney weigh in. Where's the other place, Council Member Filseth?

Council Member Filseth: I see two places. One is—I take it back. Maybe there's only one.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion, "replace in Municipal Code Sections 18.15.040(b), and 18.15.100(d)(iv), "59 years" with "55 years."

Mayor Holman: Council Member DuBois.

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Council Member DuBois: Just a couple of quick questions. On the minimum density for the zoning, I believe that's in our Housing Element. I think it should actually come back when Council discusses the Housing Element, which is supposed to be early next year. Somebody could make a note of that. I had a question about the definition of major transit stop. It refers to some Code. Is that State law that it refers to? I don't have it in front of me. I can find it. Page 20, Section i. These housing densities apply when you're near a major transit stop. Where is that defined?

Ms. Silver: That's also from State law. There are, I believe, three different triggers for the transit stop. The State law defines transit stop. Basically it's the Caltrain stations for purposes ...

Council Member DuBois: Right. I saw in the Staff Report it's, like, crossing of a major bus line with service every 15 minutes or something. Can we control that definition or does it have to be the State law?

Ms. Silver: No, it has to be the State law definition.

Council Member DuBois: There were comments raised about the PTOD density bonus, which is in a later section. I don't think we're going to—it's not listed in a group later on, so I thought I'd bring it up now. I just want to understand. Could you clarify? It sounds like we're increasing density. We deleted a line that said what the maximum density was. Are we double counting density now in a PTOD?

Male: (inaudible)

Council Member DuBois: Yeah. Section 18.34.040(e)(iii), page—hang on a second. It's page 29, the last number there. Number 3 has been deleted. Cara mentioned that in her comments, but I didn't really understand the impact.

Mayor Holman: We're only on page 15 to 21 at the moment.

Council Member DuBois: This is density bonus, and it's not in another group. That's what I said. We're not going to discuss it later. Seems like now is the right time.

Mayor Holman: Okay. Although, we are going to go through Attachment E.

Council Member DuBois: It's not in Attachment E. It's in Attachment A. It's been deleted. I just wanted to understand what that means, what's the impact of that change.

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Ms. Silver: Sure. Under PTOD, you can get a nominal housing density bonus. We have found in practice that nobody has applied for a PTOD overlay, and so our suspicion is that that incremental bonus is not enough to really warrant the additional regulations that come with PTOD. What the amendment does is allow a density bonus on top of that existing bonus allowed for PTOD to count towards density bonus concessions.

Council Member DuBois: Can you quantify that though? Do you get double the density?

Ms. Silver: Unfortunately, I can't quantify it, because I don't know ...

Council Member DuBois: Before, what was here basically said you could either use this or the State density bonus, and you get to a density level. People have been using the State density bonus, so do we care if we use one or the other? It seems like now we're letting them use both, is what you're saying.

Ms. Silver: We have to allow people to at least use the State density bonus amount which is greater than the PTOD amount. I think there's a legal vulnerability here, keeping this provision as is, by saying that you cannot use State density bonus in PTOD zones. The State law says that cities have to allow State density bonus in every zone.

Council Member DuBois: We don't have to allow—anyways, if I understand it, this sounds like a policy change more than maybe some of the other items we're doing here. I just don't understand how much more density this means. It would be good to understand that, I think.

Ms. Silver: That would certainly—if the Council wanted to put that as a Tier 2 item and we could try to do some quantification, we'd be happy to do that.

Council Member DuBois: Again, if you guys can explain it. Otherwise, I'd say let's put it in Tier 2, because I just don't understand how much it is.

Mayor Holman: Yes, we do. Council Member DuBois, you have the floor. Do you want to propose something to be put on this list that we'll vote on?

Council Member DuBois: I'd like to hear what my colleagues think about this. Again, I don't really have a clear understanding. One other comment for Jonathan and Amy. Again, it didn't make the list this year, but I'd like to add another to the parking lot which should really be a discussion about not allowing office space to be used as part of the State density bonus and clarifying that so the bonus could be used for housing in a mixed-use project.

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Mayor Holman: Amy, did you say that's already in Tier 2? It's come up before.

Mr. Lait: Yeah, that's in our Tier 2 list.

Council Member DuBois: I am curious what you guys think of this PTOD issue.

Mayor Holman: Council Member Filseth, you seem to have thoughts on that.

Council Member Filseth: I was just going to suggest that isn't what you really want something that says in a PTOD district you can have the greater of the State bonus or the local one, whichever is greater but not both.

Ms. Silver: That would comply with State Density Bonus Law, that provision. That would eliminate our legal concern which is why we're recommending deleting the provision.

Mayor Holman: It sounds like we're covered. Council Member Wolbach. Council Member DuBois, were you going to make an amendment? You didn't jump on it.

Council Member DuBois: Council Member Filseth had the floor.

Council Member Filseth: I want to cede the floor to Council Member DuBois. You should make the amendment, because you brought it up and you understand it.

Mayor Holman: If you have the floor and you become silent, I think you're done. Council Member DuBois then.

Council member DuBois I propose a friendly amendment that instead of striking this line on page 29, that we say the greater of bonus density, either the State or the PTOD would apply. I'll let legal do the wording on that one. That's the intent.

Mayor Holman: It's on page 29, and it's right above—where is it exactly?

Council Member DuBois: It's Number 3 of this redlined, deleted.

Mayor Holman: It is Section 18.34.040(e)(3) it looks like. Do we have a second? I'm sorry. The Motion was by Scharff. Do you accept that?

Council Member Scharff: I do accept it. I also wanted to make clear that I did hear that we're going to come back and look at this issue on Tier 2 with understanding the numbers behind it. I don't want to just say that we're

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going to base—basically what I think the effect of this is that it basically does away with anyone using the PTOD district. Right? That was sort of the sense I got. This seems to keep the status quo the way it is. I didn't want to make policy decisions tonight if we can keep the status quo. I'm accepting it because we want to keep the status quo, but I do want to have the policy discussion about what this looks like, why have a PTOD district, how much more housing do we want, what kind of densities do we want, all that kind of stuff.

Mayor Holman: Council Member Berman, do you accept it, as the seconder of the main Motion?

Council Member Berman: I don't know. Is this directly mentioned in this, that strike-through in particular or no? Does Staff have any idea? I'm looking for a quick synopsis of exactly what this change means before I ... This did implement and make it consistent with the new Housing Element. Now, we're not going to be consistent with the new Housing Element. Is that correct?

Ms. Silver: No, that's the change on the top of page 29. The change that we're talking about is the strike-through of Section 3 which says that in PTOD zones you are not entitled to take advantage of density bonus. The amendment on the floor is you're not entitled—you can take advantage of either the PTOD housing density bonus or the State Law Density Bonus, whichever is greater.

Council Member Berman: Okay, I'm fine with it.

Mayor Holman: That Motion is accepted then.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion, "replace in Section 19 of the Ordinance, Municipal Code Section 18.34.040(e)(3) with "the provisions of this section are intended to address the density bonus requirements of State law within the PTOD District. The maximum bonus density available under this section shall be the greater of the bonus density allowed under this chapter or under the City's density bonus provisions contained in Chapter 18.15."

Mayor Holman: I also have lights from Council Member Wolbach.

Council Member Wolbach: I'd like to propose a friendly amendment, but I don't think it's going to be accepted as friendly. I'd like to suggest that we remove the words "with no required minimum density" where it appears in three places on pages 15 and 16.

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Council Member Kniss: That's where you started?

Council Member Wolbach: Yeah. I'm now offering it as an amendment.

Council Member Kniss: (inaudible) at the beginning?

Council Member Wolbach: I hadn't made a Motion then, and I'm now making an amendment.

Mayor Holman: Council Member Scharff, do you accept that amendment?

Council Member Scharff: What was the amendment?

Mayor Holman: To strike the words "with no required minimum density" in three locations, pages 15 and 16.

Council Member Scharff: No.

Mayor Holman: You want to propose a separate ...

Council Member Wolbach: I'd like to propose an amendment, to remove the words "with no required minimum density" in the three locations that they appear on pages 15 and 16, if I have a second.

Mayor Holman: Hearing no second ...

Council Member Kniss: I would second it, but I want to go back to this discussion we had before, which was—remind me, Staff. Our discussion about this was it would go on Tier 2 because ...

Council Member Wolbach: I'm also happy ...

Male: (crosstalk) status quo.

Council Member Wolbach: I'm also happy having a further conversation about it on Tier 2 and in our Housing Element when that comes back in January. For now I don't think we should be changing it.

Council Member Kniss: I think that's exactly what we agreed to before for the reasons that Staff stated at that time. I told you I would support it, except that it's going to return on Tier 2.

Council Member Wolbach: Right. I'm ...

Mayor Holman: Are you saying then, Council Member Kniss, you're not seconding the amendment?

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Council Member Kniss: No second, but identifying that it will return though.

Council Member Wolbach: Anyone else?

Mayor Holman: Council Member Wolbach, that amendment dies for lack of a second.

AMENDMENT: Council Member Wolbach moved, seconded by Council Member XX to remove from Municipal Code Section 18.13.010(a), (b), and (c), "with no required minimum density."

AMENDMENT FAILED DUE TO THE LACK OF A SECOND

Mayor Holman: Council Member Filseth, did you have something additional?

Council Member Wolbach: Actually I had a couple others. I had a couple other items as well.

Mayor Holman: I didn't realize that. Council Member Wolbach.

Council Member Wolbach: Also on page 17, there are a couple of spots where it's talking about essentially replacing housing with new housing. It says—on the third line, it refers to replacing with units of equivalent size or type or both. Is there ...

Council Member Kniss: (inaudible)

Mayor Holman: That's ...

Council Member Wolbach: I'm sorry. Page 17, the bottom paragraph where it has a "1" at the start, the middle of the third line. The third line reads "the same number of units of equivalent size or type or both," yada, yada. Where it says "size or type or both," I'm curious if—actually I've got to ask Staff before I suggest it as an amendment. Would there be a problem with just changing that to "size and type" and then getting rid of "or both"? Is there any substantial policy implication besides reinforcing that those are both important?

Ms. Silver: Thank you. This question was brought up in another context, and we did look at the State law. The State law uses this sort of unusual language. We're not sure what the distinction is frankly between size and type. I wouldn't recommend varying too much from the State law. One way perhaps to satisfy your concern is to insert some language that says "equivalent size or type or both as approved by the Director." If there is a situation where size and type is important, the Director can require that both the size and type be replaced.

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Council Member Wolbach: I guess, since we're not clear on what this means or what changing it would mean, let's put this in the bucket to come back once Staff has more understanding about the legal context. I won't propose any changes for now, because I don't know what I'm meddling with.

Ms. Silver: That's fine with Staff.

Mayor Holman: Did you have something else, Council Member Wolbach?

Council Member Wolbach: Actually, thank you. Actually my only other one in this section, I think, that might be a concern here was already addressed. That was also creating the consistency between 59 and 55 years. I think I'm okay for now.

Mayor Holman: Council Member Kniss.

Council Member Kniss: I spoke. I was speaking to the second that I didn't make.

Mayor Holman: Council Member Wolbach, excuse me, Council Member DuBois.

Council Member DuBois: My questions were answered.

Mayor Holman: Mine has been answered as well. Thank you, Council Member Wolbach. You took care of that. I think we are ready to vote then. That is Council Member Scharff moved by Council Member Berman to approve ordinance Sections 10 through 13, this is Group 3, modifying Municipal Code Chapters 18.13 to 18.15; and replace the Municipal Code sections 18.15.040, development standards for affordable units, and 18.15.100, regulatory agreements, replacing 59 years with 55 years in both of those locations; and replace in 18.34.040(e)(3), greater of bonus density either the State or PTOD. With that, vote on the board please. That passes on a 7-1-0 vote with Council Member Filseth voting no—no, it's Vice Mayor Schmid.

Council Member Wolbach: No, it's Wolbach.

Mayor Holman: It's Wolbach. I'm sorry. I can't read that far away with my (inaudible). Council Member Wolbach voting no with Council Member Burt absent. Thank you all.

MOTION AS AMENDED PASSED: 7-1 Wolbach no, Burt absent

Mayor Holman: That takes us to Group 4, which is commercial zoning. That starts on ordinance page number 21, Section 14. Council Members?

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Council Member DuBois: Which page is this?

Mayor Holman: It's ordinance page 21, Section 14. It's 21 to page—to the end of page 27. One thing I neglected on the prior was there was a typo that I think Staff was aware of. On the bottom of page 20, the "1" becomes a "i" in the very last paragraph. Council Member DuBois.

Council Member DuBois: I just want to be clear again. With the changes you guys proposed here, it's basically building envelope would not change.

Mr. Lait: What page are you on?

Council Member DuBois: On the presentation—I can't find it right now. There was new language shown tonight that wasn't in the written ordinance about business envelope.

Mayor Holman: Building envelope, that is on ordinance page number 25. It's "2c," third line down, building envelope shall mean the three-dimensional shape and space occupied by an existing building. That was the change proposed by Staff.

Council Member DuBois: With that change under "F" on that page, the Director could approve a minor change to a building envelope. Is that correct? For minor aesthetic improvements.

Mr. Lait: New Subsection F on page 25 of the ordinance, middle of the page.

Council Member DuBois: Yeah.

Mr. Lait: The Director would be able to approve through the architectural review permit—that would be either through a minor permit that we process at the counter or a major permit that goes to the ARB—minor changes to that building envelope to improve pedestrian orientation and the aesthetics, but it cannot result in any increase in any nonconforming feature.

Council Member DuBois: I was trying to—like, when would that apply? I was trying to understand what that means. You have this volume—we've changed it that way from volume so you actually have a three-dimensional shape and space. How could you change it?

Mr. Lait: I guess where it's come up in a couple of different cases with people—like, Downtown for instance, you've got a building that's over height, maybe over FAR. They want to change the approach to the entrance. They just want to make some changes to it. Some of those changes may result in moving some walls around or changing the building volume sort of at that base level, but it does not result in any increase in

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floor area. Maybe you're just moving some walls around to create a better pedestrian (crosstalk).

Council Member DuBois: An exterior wall?

Mr. Lait: I'm sorry?

Council Member DuBois: (crosstalk) an exterior wall?

Mr. Lait: Exterior walls, yeah. With this shrink wrap concept, we wouldn't allow somebody to—let me even take another example, parapets. Parapets that exceed—that are maybe exceeding the height limit, if somebody wanted to reduce the height of that, that—if you cannot change the height of the building, we would not allow somebody to take a 6-foot parapet and make it a 4-foot parapet.

Council Member DuBois: The other ones made sense to me. The building envelope didn't make sense. I was trying to understand it.

Mr. Lait: We're trying to be as inclusive as possible to allow for—because then we're listing all the different things. Then we're listing the length, and we're listing the footprint and the height. We just thought we'd capture it with building envelope, which is defined above.

Council Member DuBois: Another comment was on site design. I'm trying to find that. This idea that people are basically doing three units to avoid site design or four units or less, I guess. I guess the thought I had reading that was we could go the other way and just say that all mixed use requires site design, which would not encourage people to limit the number of housing units. They wouldn't need to stop at four. It just seems like mixed use has been kind of the issue. Now we're moving it up to nine, we'll see a lot of eight units or nine units, but we won't see ten units. We're just kind of shifting the problem. Maybe a better solution would just be to say all mixed use should go to site design. I wonder what you guys thought about that.

Mr. Lait: I'd want to take a look at our Housing Element, because there is that policy that does seek to minimize the barrier, the government constraints about providing housing. If we're now taking projects that are otherwise able to be reviewed by the ARB only and now we're subjecting them to PTC review and City Council approval, that does add a fair amount of time to the processing of a mixed-use project that would have three units or four units. I'd be concerned about requiring mixed use for those types of projects—requiring site design for those types of projects.

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Council Member DuBois: It just seems like a temporary fix. At some point, keep bumping that number up and we're no site design for 30 units. At that point, it gets a little silly.

Mr. Lait: I think there is a broader policy conversation that needs to occur likely as a result of the Comp Plan Update. Here we were looking to the Housing Element policy. I think we've referenced it in the Staff Report. It escapes me right now. H-23 or 2.3 or something like that. Looking to that policy, I think it gave us guidance about the number nine. I think that's why we selected that number.

Council Member DuBois: Thank you.

Mayor Holman: I don't have any other lights on for this group. Council Member Wolbach.

Council Member Wolbach: On page 21 under 18.16.050, Items 3 and 4. It references occupied by housing on March 19. In "4" it says vacant on March 19th, 2001. Help me understand what's the significance of that particular date and why it doesn't say "on or before." I guess I'm just not clear. What's the context that creates that? Do you know?

Mr. Lait: The ordinance that implemented this section was probably on or near that date. That's just a point in time that was chosen.

Council Member Wolbach: I guess that's not something that you guys are proposing changing. It's just something that caught my eye. I don't know if that's something we should update or not. I won't press it tonight. On the four or nine, I'm actually okay with bumping it up to nine. The one we were just talking about.

Council Member Kniss: (inaudible) Cory?

Council Member Wolbach: No, I'm actually looking for my next notes. I made notes on a few different pages of this. Maybe this is what you were already talking about. I'm sorry if I'm repeating something we'd already discussed. Page 25, "2b," where we took out shift the building footprint. I was wondering if maybe we should just leave that in, in addition.

Mr. Lait: The reason we struck it there is because we added it to Letter c below.

Council Member Wolbach: I guess that's it for right now.

Mayor Holman: Council Member Scharff.

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Council Member Scharff: I guess most of my questions were answered. I guess I'll just move the Staff recommendation.

Council Member Kniss: I second it.

MOTION: Council Member Scharff moved, seconded by Council Member Kniss to adopt Ordinance Sections 14-15, modifying Municipal Code Chapters 18.16 and 18.18 including Staff proposed changes to Municipal Code Section 18.18.120(a)(2)(C).

Mayor Holman: Care to speak to your Motion?

Council Member Scharff: Yeah. I think these are a good set of changes. I do think it's important to have some flexibility on the building—I guess footprint is the wrong word. On aesthetic issues for being able to, I guess, shift the building footprint so you could have different access and that kind of stuff. I mean, I think we're not increasing the floor area ratio. We're not moving, like we talked about, moving below grade to above which struck me as inappropriate. I do think we want the best Downtown, frankly, that we could have. Flexibility is a good thing. You want to be able to reorient your buildings so that where the traffic flows is where the best place to have the opening is. Things change over 50 years. I actually like a lot of the really old, grandfathered in buildings. I would hate to see us tear down the University Arts Center. I'd hate to see us tear down the Cardinal Hotel, frankly. I'd hate to see us turn down—what's the other tall building where people live down on ...

Mayor Holman: Presidents Hotel.

Council Member Scharff: The Presidents Hotel, thanks. I think these are the buildings that actually give our Downtown character. I think we want to make it easier for people who own those buildings to want to maintain them, to want to refresh them. I think that flexibility is really important. I'm glad we're moving in that direction. I also wanted to just briefly understand the nine units a little better. My understanding of it is that when you add to a mixed-use project right now, if you go above four, then you need to go to PTC, not just ARB. Right? That's really the issue. In our Housing Element, if I recall, we committed to doing that, to the nine, didn't we? We committed to exploring that as a possibility, is what we said. The only thing I wanted to comment was that we talk about the Housing Element as if it's separate from the Comp Plan. It's not; it is the Comp Plan. We've talked about following the Comp Plan, and that's one of the portions of the Comp Plan that has been approved by Council. I was a little confused by, Jonathan, you made some statement about when we do the Comp Plan. I was really confused since we've done that part of the Comp Plan. We may

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revisit it, but I thought that was somewhat ... Anyway, I think Staff did a good job on this. I think we should move forward on it and get to the rest before it gets too late.

Mayor Holman: Council Member Kniss, speak to your second.

Council Member Kniss: I think this is the first one we've gone through that's relatively easy, well laid out. The grandfathering part of it is very important, I think, for the long-term recognition of the buildings that are in our community. I'm delighted that we're making this that explicit. Glad to pass the Motion.

Mayor Holman: I don't see any other lights. I'm going to ask—I think this is what is intended but not in the Motion. Two things actually. One is let's put the explicit language in for the change that is there, 120(a)(2)(C), which is the volume of space is replaced with three-dimensional shape and space.

Council Member Kniss: Where are you exactly?

Mayor Holman: On the Motion that's on the screen. It's already got (a)(2)(C). The explicit language is "volume of space" is replaced with "three-dimensional shape and space."

Council Member Wolbach: The Staff recommendation on this line?

Mayor Holman: Yes. Replaced with "three-dimensional shape and space." That's just making it explicit. For the maker and seconder, I am supposing what you would also want to do is Section 18.18.060, at the bottom of page 23, "e," this is what we had done before. For the purposes of this section, disability-related, the language became instead of "minimum extent necessary," it became "incremental square footage necessary to accommodate." To be consistent ...

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add at the end of the Motion, "to replace 'volume of space that is' with 'three dimensional shape and space.'"

Mayor Holman: For the maker and seconder, I am supposing what you would also want to do is Section 18.18.060, at the bottom of page 23, "e," this is what we had done before. "For the purposes of this section, disability-related," the language became instead of "minimum extent necessary," it became "incremental square footage necessary to accommodate" to be consistent ...

Council Member Scharff: I'm fine with that.

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INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion, "in Municipal Code Section 18.18.060(e), replace "minimum extent necessary" with "incremental square footage necessary."

Council Member Kniss: I noticed that one too (inaudible) called it out.

Mayor Holman: David, do you follow that one?

Council Member Kniss: It makes it fit with the previous Motion.

Mayor Holman: It's consistent with the previous Motion that we passed. Can you find it?

Council Member Kniss: Yes. Thanks for mentioning that.

Mayor Holman: I was looking to David to see if he could find it. I can't tell you immediately where it was previously.

Mr. Lait: Page 7.

Mayor Holman: Incremental square footage necessary to accommodate, blah, blah, blah. Thank you, David. You're great. I had one other amendment to offer. This is where we dip our toes into Attachment E. This is Section 17, which is the last part of Group 4 here. This is the rooftop equipment. This goes to Attachment E on packet page 385. At the very bottom, it talks about exceptions. It says that in the CC, CD CN and CS districts, except for elevators and elevator equipment, features sited above shall not exceed the height limit by more than 8 feet. In the CC(2) zone, such features may not exceed the height limit by more than 5 feet. Elevators and elevator equipment may exceed 8 and 5 feet above the height limit upon approval by Director. This is something that architects have been saying for some time. It's, like, for mechanical equipment 15 feet just isn't needed. They've been saying that 8 feet is all that's required for some time.

Council Member Scharff: I'm really confused. You've gone into the second, Attachment E in Tier 2 items.

Council Member Kniss: We're way at the end dealing with (crosstalk).

Council Member Scharff: Weren't those Tier 2 items?

Mayor Holman: It's because they're related one to the other.

Council Member Scharff: Aren't we agreeing that as a process, we're going to put those forward, and they'll come forward with us?

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Mayor Holman: When I had the conversation—maybe I misunderstood it—earlier with Director Gitelman, they're related. If we adopt at one place, we need to adopt at the other place. If I understood correctly.

Mr. Lait: Just so I'm on the same page as everybody else. We're at the bottom of page 27?

Mayor Holman: Yes.

Mr. Lait: We're talking about this provision. I'm going to ask Amy to explain this. I do think that there's a distinction between this section, though, and the other section. This one is applying to, I think, a broader range of properties and also building height as opposed to (crosstalk).

Ms. French: That's correct. 18.23, I put this up on the screen. It's an administrative change, and it forecasts the change in 18.40 where we're getting specific as to this 8 feet pertaining to commercial zones where 15 feet is still suggested, as out in the Research Park, etc., for those large buildings that need the taller ...

Mayor Holman: This also is for multifamily.

Ms. French: Yes, that is correct. This whole chapter is about performance standards when you're single-family homes for commercial and industrial and ...

Mayor Holman: Not single-family homes.

Ms. French: It's when it's within 150 feet of residential. Yes, it does say multifamily. I'm sorry, this is above the roof. This is not above—the later change. Let me get you to the later change that's in Attachment E. This one, 18.40, is about adding 15 feet above the height limit. Let's say it's 50 feet. This one before it, "23," it's to say go 15 feet above the roof. It still may be under the height limit, if it's a shorter building or what have you. This one, 18.40, is specific to exceeding the height limit.

Mayor Holman: I'm going to add that to our list of come back to us. 18.23.050, 15 feet versus 8 feet.

Mr. Lait: As a Tier 2 discussion?

Mayor Holman: Yeah.

Council Member DuBois: Mayor?

Mayor Holman: Yes.

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Council Member DuBois: I hope we can hit a couple of these tonight. I mean that they're ..

Mayor Holman: Yeah, I'm planning on going there, yeah. With that understanding, then the Motion on the floor is to make changes to Group 4 which are Sections 14 and 15 and including two text changes suggested by Staff. One having to do with building envelope defined as volume of space that is. The other is replace "minimum extent necessary." Is that right? "Incremental square footage necessary" is what it is. With those two amendments then or additions, then we can vote on the board on this section, these two sections. That passes unanimously with Council Member Burt absent.

MOTION AS AMENDED PASSED: 8-0 Burt absent

Mayor Holman: Then we go to Group 5 which is CEQA. Actually, I think when we talked about it this afternoon, it is pages 28, but also goes down to Section 23 on page 31. It's more than CEQA. I'm sorry, page 31. It's pages 28 down to Section 23 on page 31. Down to Section 23 on page 31 of the ordinance. When I was talking with ...

Council Member Kniss: No, you're Group 5.

Male: Group 5 starts at page (inaudible).

Council Member Kniss: 282, 286.

Mayor Holman: Group 5 is CEQA. When I was meeting with Hillary this afternoon, I thought we took it to Section 23. Group 6 begins with Section 23. That's what I understood this afternoon.

Ms. French: (inaudible)

Mr. Lait: I'm sorry, Mayor. It looks like we've Group 5 ending at Section 21 for the ...

Ms. French: Inclusive of (inaudible).

Mayor Holman: Yeah, inclusive of Section 21. We can adapt. Council Member Wolbach, and then DuBois.

Council Member Wolbach: Looking at the additions at the start of this section, the 18.31.010 through 030. I think these look pretty good. I think there's some uncertainty maybe among Council Members, even myself and certainly in the community about what all the implications of this are. It definitely looks like we're adding some transparency, opportunities for

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appeals that we didn't previously have or weren't previously clear. I just want to ask Staff, can you envision any circumstance, if we adopt these changes, where currently something would go before a public Board, whether it's ARB, Council or PTC and, after passing these changes, that public approval or hearing would no longer happen? I just want basically reassurance that this does not reduce any public engagement, public hearings or approvals by public bodies. It doesn't look like it does to me, but I know that there's been some questions and discussions about that in the community. I wanted to make sure that we're really clear that this does not diminish any public engagement.

Mr. Lait: Are you talking specifically about 18.31.030 or are you ...

Council Member Wolbach: Just specifically 18.31, the delegation of CEQA authority, incorporation of State CEQA guidelines and CEQA appeals.

Ms. Silver: The one area where we were just discussing at the Staff level is that there is currently some uncertainty about who reviews EIRs and what type of public hearing should be conducted in connection with an EIR. The old guidelines, that were adopted years ago that are quite outdated now, do say that the Planning Commission should conduct a hearing on the EIR. I believe that was at a time when the Planning Commission was making decisions on projects, and so it made sense in that context that the Planning Commission conduct a CEQA hearing in connection with a project that it was making a decision on. However, now the Planning Commission does not always make decisions on projects. In those situations, the EIR would not go to the Planning Commission if they're not ruling on the underlying entitlement. That's one area where perhaps you might see a difference. There would still be a public hearing on the EIR; it would just take place in front of a different body, either the ARB or the City Council.

Council Member Wolbach: I guess the primary area of concern or consternation might be actually that first line about the PCE Director or other decision maker as delegated by this Code shall have the authority to make CEQA decisions. I just want to make sure we weren't moving things away from any of the public bodies to the Planning Director through that process. I was pretty sure of that; I was about 95 percent. I'm just looking for that 5 percent reassurance. With that, I'd actually be happy, if it's all right, to move the Staff recommendation on this one.

Council Member DuBois: I'll second.

MOTION: Council Member Wolbach moved, seconded by Council Member DuBois to approve Ordinance Sections 16-21, modifying Municipal Code Chapters 18.20-18.52.

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Mayor Holman: Do you care to speak to your Motion?

Council Member Wolbach: I think this is solid.

Mayor Holman: Council Member DuBois, speak to your second?

Council Member DuBois: Yes. Council Member Wolbach focused in on exactly ... I just want to make sure this language is clear. The Staff Report in the text, it says basically the intention is that the Planning Director could approve CEQA determinations for projects on which she has the authority to approve the project. The way I read the text in 18.30.010, I don't think it quite says that. If it said that the "decision maker as delegated in the Code shall have the authority," I think that makes sense. The "or Director" seems like a different meaning. If the intent was whoever has project authority can approve CEQA and we're just codifying what actually happens, I think we're good with that. Could legal maybe speak to that language? I mean, it seems like it should be clear that it's the decision maker that has the CEQA authority.

Mr. Lait: The only two entities in the City that can make a decision on CEQA are the Director of PCE and the City Council.

Council Member DuBois: We're saying in the cases where the PCE has decision authority, then they can do CEQA. That's not really what this sentence says.

Mr. Lait: The PCE Director or the decision maker delegated in the Code. The Director can make a decision, but that decision can get appealed. Now you're the decision maker in those scenarios.

Council Member DuBois: Shouldn't we say the PC Director when they have the authority to be decision maker?

Mr. Lait: Which is for every project that we process. ARB looks at them, but they make recommendations.

Council Member DuBois: There's no class of project that automatically would come to Council or to some other decision maker?

Mr. Lait: Site and design is a project that would come to you, but that's where you're the decision maker. That's another ...

Council Member DuBois: Right, but there's still this "or." Again, if you just read the language, in that case, the Director could approve it.

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Mr. Lait: In that case (crosstalk). I'm sorry, it would be the Council. Sorry (crosstalk).

Council Member DuBois: Site and design review is supposed to go to ARB and Council, but this says "or the Director" could approve it.

Mr. Lait: It says "as delegated in the Code." Just to clarify, site and design may require you to go to the ARB for what they're doing. A site and design has to go to the PTC and then the Council for approval. What this is saying is—I'm happy to rephrase it. (crosstalk).

Council Member DuBois: Again, it's more a question for the attorneys. I understand that the intent seems good. It's just the language, I thought, could be interpreted differently with that "or" there.

Ms. Silver: Two issues here. First the language was intentionally drafted in the event that the Code were to change in the future. It's a living document. If there is some other body that is given decision making authority, then we don't have to go back and amend the Code. Currently, as Mr. Lait said, only the PCE Director and the Council really have decision making authority over projects. Also, I did want to clarify that currently all EIRs come to you for review. Under this section only EIRs that are either appealed or that contain a statement of overriding considerations would come to you. That also is a slight change from current practice. Current practice, we send all EIRs to you. If there is a situation where there is a noncontroversial project that is approved at the Director's level, the Director can approve the EIR. Of course, there's still an appeal to the Council.

Council Member DuBois: That seems different than what it says in the Staff Report, in the language. Are there cases today where the Director makes CEQA determinations where she has authority and it doesn't come to Council?

Mr. Lait: Yes. CAD exemptions and neg decs, mitigated neg decs.

Council Member DuBois: Again, the language is expanding it beyond the description on the text, is what you're saying.

Mr. Lait: Where in the Staff Report are you looking?

Council Member DuBois: I'm looking at page 9. Page 9 in the Staff Report just the English description of paragraph 2.

Mayor Holman: Packet page what, Tom?

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Council Member DuBois: Packet page 246. Third paragraph down, while it's common practice. Again, I understood that that was the intent, that the ordinance was to accomplish that.

Mr. Lait: I see the paragraph as reflecting the ordinance. I'm not seeing ...

Council Member DuBois: I'm hearing something different. I think, Cara was saying that it actually changes some of the behavior where EIRs that come to Council today would no longer come to Council. Am I hearing that wrong?

Mayor Holman: Ordinances—excuse me, not ordinances. EIRs currently have to come to the City Council for certification. This is a pretty significant change. If I'm reading this correctly, then—it seems a little bit confusing to me. For instance, Jonathan mentioned site and design projects. Does that mean the Council would no longer need to approve those EIRs, that the Planning Director would?

Ms. Silver: No, no, no. I'm sorry if that was confusing. The final decision on the entitlement, if it's made by the City Council, then the City Council is the entity that must approve the EIR. If the final decision is made by the Planning Director, then under State law the Planning Director must approve the EIR. Currently, what we've been doing is, because the State law is currently inconsistent with our current practice, if we have a—it generally comes up with design review where the Planning Director has the authority, under our Code, to issue the entitlement. But we have this practice that the Planning Director cannot approve EIRs; those EIRs are approved by Council. What happened with a recent project, for instance 2555 Park, the Planning Director did not make the decision on the design review. Instead, that decision was bumped up to the Council. The Council made the decision both on the entitlement and on the EIR to comply with the State law requirement that the decision maker needs to approve the EIR.

Mayor Holman: I guess where it's confusing to me is that the first section, the 010, doesn't draw the clarity that you just provided in responding to Tom, also provided. Jonathan.

Mr. Keene: (inaudible) that language in the (inaudible).

Mr. Lait: I guess I'll say that if the Council wants to retain the—I guess the confusion I had was that the CEQA guidelines, that we're updating by throwing out the old CEQA guidelines and using the State guidelines, might be some of the area where we have some language today that says the process of going to the PTC and then to the City Council for the EIR. If the Council wants to reserve the review authority for EIRs, that's fine. That's a process that we can embed in here. As far as the first part of the ordinance

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language, we can just say "the decision maker set forth in the Code shall have the authority to make the CEQA determinations for all items except all EIRs will come to the Council for review," if that's ultimately what the Council's interested in, to retain that authority.

Mayor Holman: Returning to Tom, were you through with your comments and questions?

Council Member DuBois: Yeah. Thanks for clarifying that. I'd definitely be open to amendments if people want to clarify that.

Mayor Holman: Council Member Scharff.

Council Member Scharff: What I actually heard was really different. I heard Cara say that State law requires the decision maker to be the one. Jonathan, I didn't understand how you thought it could then go back to Council on the EIRs. If State law requires the decision maker to do it, and Hillary would be the decision maker in those circumstances, unless that ...

Mr. Lait: Cara shot me that look.

Council Member Scharff: I just wanted to make sure we're clear on that.

Mr. Lait: I'm going to defer the City Attorney on this and stay out of it.

Council Member Scharff: In that case, I just want to say I'm going to support the Motion. I hope we can move this along.

Mayor Holman: Council Member Wolbach.

Council Member Wolbach: Now I'm starting to doubt my own Motion. I started with the question are there any current times where something would come to Council or some other public body which after this change would no longer come to the public body. Now it sounds like there are times where currently it would come to Council, but after this change it will just go to the Planning Director. Is that correct? That would mean that that is a time when ...

Mr. Lait: (inaudible) EIRs.

Council Member Wolbach: There would be EIRs that currently are reviewed by Council and, after this change, would go to the Planning Director and not the Council.

Ms. Silver: They would go to the Planning Director. There will always be the ability to appeal to the Council.

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Council Member Wolbach: It won't automatically come to the Council.

Ms. Silver: Correct, correct.

Council Member Wolbach: Whereas, under current procedure, it automatically goes to the Council.

Ms. Silver: That's correct. We are recommending this in order to kind of align our process with State law that requires the actual decision maker to make a decision on CEQA. It really is a small number of decisions, because we don't do a lot of EIRs here. I think this only comes up in the EIR context.

Council Member Wolbach: That's exactly what my initial line of questioning was about. That's a little bit different from what I was hearing earlier. Just so I don't end up voting against my own Motion, I guess the next question is do we need to do that in order to be in compliance with State law. It sounds like you're saying that's the whole point of this, that we're out of alignment with State law. I know what it says here. We've gone back and forth on this, and I've heard a couple of different answers about this question. That's why I'm coming back a third time.

Ms. Silver: It is a complicated a issue. I think there are two different ways to come into compliance with State law. One is as we've suggested. The second way to come into compliance would be to completely restructure your Zoning Code so that all decisions are made by the Council, both the underlying entitlement decision and the CEQA decision, in which case there would really be no appeal. The Council wouldn't serve as an appeal body; it would just hear all of these issues in the first instance.

Council Member Wolbach: I'm not interested in increasing the workload that comes to Council right now. I'm also not interested in ending a current practice of Council review and approval, where it currently happens and delegating that to the Staff level at this point. I think that there would be a lot of discomfort with that in the community. I'm wondering if that's maybe something that, even if we approve it tonight, maybe further discussion about changing who the decision maker is for various CEQA actions, maybe we discuss in the future.

Mayor Holman: Can I suggest that—I also have questions on this one. I'm wondering if—I think there are going to be a couple of things we're going to want to come back to us.

Mr. Keene: May I make a suggestion? I'm sorry. You guys have been going 3 1/2 hours on this which starts to take its toll on the response rate I'm hearing and the questions and everything. When we're doing the budget

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and we get to a difficult thing, a lot of times we have a little parking lot. We'll just say, "Why don't we put this in a parking lot?" You've identified some of the issues, let us go back and a little more clear-headed and give you the examples so you understand it. Come back and then drive through the ones you can definitely get done. You may look and say, "We've got three or four parking lot items."

Mayor Holman: That was what I was suggesting, that Group 5, CEQA, be—it's a substitute Motion, that Group 5, CEQA, Section 18, 19 and 20 be deferred and come back at a later time. Looking for a second.

Council Member Wolbach: Which pages?

Mayor Holman: Group 5. It's CEQA, Section 18.31.010. I could just make it that. I'll make it discrete then. I'll make a Motion that Section 18.31.010, delegation of CEQA authority, be deferred to return to Council at a later date.

Council Member DuBois: I'll second that.

SUBSTITUTE MOTION: Mayor Holman moved, seconded by Council Member DuBois to continue discussion of the addition of Municipal Code Sections 18.31.010, 18.31.020, and 18.31.030.

Mayor Holman: Speaking briefly to it. I have some more questions of this. I think there's some other things we can accomplish tonight. I don't think there's any point in trying to beat any further on this particular item at this time. Council Member DuBois?

Council Member DuBois: I agree.

Mayor Holman: Council Member Scharff.

Council Member Scharff: I won't support the substitute Motion. In fact, I would second Council Member Wolbach's Motion, if Council Member DuBois is not interested. What I heard was this. I heard a simple explanation that State law requires that the decision maker on the entitlements make the CEQA decision as well. I understood that was State law. I said to myself, "We should be in compliance with State law." Seems pretty simple to me. That doesn't mean that it's not what we're calling the parking lot or Tier 2 discussion about how we want to structure—it's not CEQA decisions. Who then makes the entitlement decisions? I'm probably good with who makes the entitlement decision and that we have appeals, because I don't want everything to come to Council. I think we could over-think this. I am interested in what we're doing today, which is a cleanup process. As part of

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the cleanup process, we should be in compliance with State law. If we want to rewrite how we do our processes and procedures to have some other body other than the Director make the entitlement decision and, therefore, make the CEQA decision, or if we want to have Council make all entitlement decisions, that's a discussion I'm willing to have. Probably not think that's the right idea. Therefore, I think the original Motion is the right Motion, and we should move forward with it. To defer this gains us nothing except not being in compliance with State law, which I think is the wrong way to go.

Mayor Holman: The substitute Motion is 010, 020 and 030, to the City Clerk. My understanding is we're not out of compliance with State law; we're just not in alignment with State law. We're not ...

Council Member Scharff: That is the same thing. We are out of compliance with State law.

Mayor Holman: No, it's ..

Council Member Scharff: There's no such thing as not being in alignment.

Mayor Holman: Council Member Scharff, let me finish please. It's not the same thing from my perspective, because we could have—for instance, we can have more stringent or more restrictive standards for how we make CEQA determinations. That doesn't make us out of compliance. It just means we're not aligned, but we have the full authority to do that. It's not the same thing. Cara, would you care to speak to that? It's not that we're not in compliance; we're just not aligned.

Ms. Silver: I did phrase it as we're not in alignment. Staff has been trying work-arounds to get us into compliance. What the work-around has been is that in situations where we have had EIRs, the Planning Director has not made that decision even though the local Zoning Code does require the Planning Director to make the decision on the entitlements. Instead, we've been bumping everything up to the City Council. That puts everyone in an awkward position because our local Code then is not consistent with the practice. Certainly we do need to clean this issue up.

Council Member DuBois: Mayor?

Mayor Holman: Council Member DuBois.

Council Member DuBois: I thought you had clarified your Motion to only the 010, and then you just added two more sections to it. I thought the Motion was that we were going to have further discussion about 010.

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Mayor Holman: We can do them one at a time. I was hoping to continue all three of these sections. I do have more questions about incorporation of State CEQA guidelines and what all that entails.

Council Member DuBois: I would just say that it's a question of timeliness. We're not saying that we're not going to become compliant with State law. We're just saying we're not doing it right now, that there's enough questions that we're going to have it come back.

Mayor Holman: That certainly is the intention. Council Member Filseth.

Council Member Filseth: Just briefly. This may not be popular. I think we're kicking a lot of stuff to the parking lot. As pointed out earlier, there is an appeals process here. I think we should make a decision and move forward. If we get it wrong, we'll have a chance to fix it later.

Mayor Holman: Seeing no other lights, the Motion on the floor is to continue the discussion of additional Municipal Code Sections 18.31.010, 020 and 030. That Motion fails on a 4-3—excuse me, a 5-3 vote with Vice Mayor Schmid, Mayor Holman and Council Member DuBois voting yes.

SUBSTITUTE MOTION FAILED: 3-5 DuBois, Holman, Schmid yes, Burt absent

Mayor Holman: We return then to the main Motion, providing Council Member Wolbach still supports his own Motion. That Motion was to approve ordinance Sections 16 through 21 modifying Municipal Code 18.20 to 18.52. I see no lights. I have a question here. Chapters 18.20 to ... Is that correct? That seems not right.

Council Member Wolbach: Yes.

Mayor Holman: We're on Section—pardon me for being brain dead here. We're on Group 5 which is ...

Council Member Wolbach: (inaudible)

Mayor Holman: When I look at the ordinance, it's Section 18. That's what we've just been talking about. Group 5 should be Section 18.

Mr. Lait: We've been talking about Section 18. Group 5 is Section 16 through Section 21. That's what ...

Ms. French: (inaudible)

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Mayor Holman: Our prior Motion incorporated Sections 16 and 17. Yes, it did, because we went to the end of page 27.

Mr. Lait: Mayor, you're a couple of sections off from how we've aligned the PowerPoint presentation. We did capture your other comments on—there's been a couple that have sort of drifted out of that area, but we have those recorded as part of the Motions that we've been making.

Mayor Holman: I'm going by how this afternoon they were identified.

Mr. Lait: I'm sorry. That slide reflects sort of how we've presented the different groupings. I'm sorry, this evening—I apologize for the miscommunication on how ...

Mayor Holman: That's how we're doing this.

Mr. Lait: Yeah, that's exactly right.

Mayor Holman: It is Section 16, which we already did, and Section 17. Hang on, let me catch up here. Through Sections 21. We're on the same page now. That is the Motion on the floor, Sections 16 through 21. Vote on the board please. That passes on an 8-1-0 vote with myself voting no and Council Member Burt absent.

MOTION PASSED: 7-1 Holman no, Burt absent

Mayor Holman: Then we go to Group 6, beginning with Section 22 on page 30. Council Member Scharff.

Council Member Scharff: I thought these were all good changes. I actually didn't have any issues with any of them. I think we should go forward with it. I'll move approval of all of them on the Group 6 policies.

Council Member Berman: Second.

MOTION: Council Member Scharff moved, seconded by Council Member Berman to approve Ordinance Sections 22-24, modifying Municipal Code Chapters 18.70-18.77.

Mayor Holman: Care to speak to your Motion?

Council Member Scharff: No, but if anyone has any stuff, I may come back to it but not now.

Council Member Berman: Council Member Berman, care to speak to your second?

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Council Member Berman: I thought Council Member Scharff was very eloquent.

Council Member Scharff: For the first time.

Council Member Berman: In three years.

Mayor Holman: I don't see other lights, but I can go with Section 22. Section 23, the architectural review, I have numerous questions on that. I find it to be problematic. That is the architectural review.

Council Member Wolbach: That's after this.

Mayor Holman: No, it's in this.

Council Member Kniss: (inaudible) bottom of page 31.

Mayor Holman: It's in this, architectural review findings. I have several issues with that. There are some things that have been eliminated that I think are critical to our context based design that we've used before. While I think this definitely is in the right intention to try to eliminate some of the duplications. For instance, Number 4 under findings, it's like in the areas considered by the Board as having unified design character or historical character, the design is compatible with said character. I didn't find any way where that's picked up. I think given we have an Attachment E that Staff also wants to get to, I would move that we continue architectural review to the next available meeting.

Vice Mayor Schmid: Second.

Mayor Holman: Vice Mayor Schmid, would you care to speak to your second?

Vice Mayor Schmid: I found difficulty in breaking down the criteria that has been used by the ARB into these five, six groupings. It seems to be a substantive change or at least it would take some time to talk through to make sure it's not a substantive change. I think it calls for further Council discussion.

Mayor Holman: Council Member DuBois.

Council Member DuBois: I agree. I support the idea of reducing the number of findings, but I found this to be a pretty substantial policy change. I just didn't have enough time to absorb kind of all these things. I did notice several things that I think are missing from the new findings. I think it really warrants some discussion.

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Council Member Berman: Mayor Holman? Sorry ...

Mayor Holman: Council Member Berman.

Council Member Berman: ... I wasn't sure if you were finished.

Council Member DuBois: Just my last comment. I support the rest of the changes. It's just these ARB findings that I find to be kind of a lot.

Council Member Berman: That's kind of exactly what I was going to ask. Mayor Holman, if you're okay with Sections 22 and 24, then maybe we could change the substitute Motion to just an amendment to remove Section 23, and we can move forward with our evening.

Mayor Holman: Yes, that actually was my intention. I hadn't looked up at the screen to see what was captured. My only intention was to take out Section 18.76.020, architectural review, and approve the rest of it.

Vice Mayor Schmid: Yeah, that's what (inaudible).

Council Member Berman: Council Member Scharff, are you okay with that?

Mayor Holman: Vice Mayor Schmid, are you okay with that?

Vice Mayor Schmid: Yeah.

Council Member Scharff: Yeah.

Council Member Berman: I am too.

Mayor Holman: That's an amendment to the main Motion then, to continue—I keep trying to find it here—Section 18.76.020, architectural review.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion, "to continue Municipal Code Section 18.76.020 to the next available meeting.

Mayor Holman: Waiting for the Clerk here. That is Section 23, to be redundant there.

MOTION RESTATED: Council Member Scharff moved, seconded by Council Member Berman to approve Ordinance Sections 22 and 24, modifying Municipal Code Chapters 18.70-18.77 with the exception of Municipal Code Section 18.76.020.

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Mayor Holman: I see no other lights, so vote on the board please. That passes unanimously, Council Member Burt absent.

MOTION AS AMENDED PASSED: 8-0 Burt absent

Mayor Holman: Attachment E which is Tier 1, and these are amendments. We can take these in their totality. Do Council Members have questions or comments? Council Member DuBois.

Council Member Scharff: Are we doing all of these?

Mayor Holman: We're on Attachment—some of them in particular, Staff would like responses to.

Council Member Scharff: These are the Tier 2 items, right?

Council Member DuBois: Yes.

Mayor Holman: These are the Tier 2 items that Staff would like us to address.

Council Member DuBois: I suggest that we continue through the presentation, go through that order, just to give some structure. (crosstalk)

Mayor Holman: That's right. We did not have the Staff presentation on these.

Council Member DuBois: I can just talk to it. The first one was this appeal process. This was something, I think, Council discussed at the Retreat and referred to the Council as a Whole that went to Policy and Services.

Mayor Holman: Council Member DuBois, where are you?

Council Member DuBois: I'm on Slide 30.

Ms. Silver: If I could clarify. There are two different buckets of Tier 2 items. One is the Attachment E that we are characterizing currently as Tier 2. These were recommendations that we had originally proposed as Tier 1, but the Planning Commission had reclassified as Tier 2. Then there's a second bucket of Tier 2 items which we have not given you a presentation on. That longer matrix is attached as Attachment C to your Staff Report. I assume you only want to take up tonight Attachment E.

Mayor Holman: That's correct.

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Council Member Scharff: Did Staff want us to take these up tonight? Was that the plan or was it not?

Mayor Holman: Yes.

Mr. Lait: There are four items that we identified in Attachment E. Those really are the only ones that we're interested in. The balance of the Attachment E we would be fine moving to Tier 2. Council Members may have a different perspective on that. The four that are listed on the screen are the ones that we've highlighted. The bottom two are the most pertinent as it relates to active development projects that are being processed by the department.

Council Member Scharff: I think these four are manageable. Why don't we just (crosstalk).

Mayor Holman: Excuse me, Council Member Scharff. Council Member DuBois had the floor, I do believe.

Council Member Berman: Excuse me, Madam Mayor. I'm sorry. I think we have a process, though, that when we hit a certain hour, we have a discussion about whether or not we're going to move on or not. I can't remember if that was 10:00 or 10:30, but it's 10:25. We've been going since 5:00 p.m. I think we need to have a discussion about what we're going to get through, how late we're going to go, and what exactly we're looking at taking on tonight before we move on with taking it on.

Mayor Holman: Fair point, fair point. Council Members—City Manager Keene.

Mr. Keene: Could I just pile on? Sorry about this, but we have a second Council meeting less than 48 hours from now also. You have a busy week.

Council Member DuBois: Again, I think we should agree to a process to either go through the attachment or through the presentation. Several of these items I think are Tier 1. PTC moved them to Tier 2. There's language here, I think we could go through them pretty quickly. There's these four; there might be one or two others. I don't think, again, anybody's suggesting we go through the entire Tier 2 list. Some of these things the Council identified as Tier 1, and there's complete language. I think it's totally valid to go through it.

Mayor Holman: Council Member Scharff.

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Council Member Scharff: I think, frankly, at most we should do one or two of these. I mean, nothing has been simple for us to go through yet, as far as I can tell. I'd be happy with going through none of those tonight, frankly. I don't know how it is for Staff, but it's hard to stay focused and clear after five or six hours on this stuff. I noticed we even got a little silly at times. I viewed that as the late hour. I guess I would move that we move all of these to a later time, to come back to Council.

Council Member Kniss: I would second it.

MOTION: Council Member Scharff moved, seconded by Council Member Kniss to continue Attachment E of the Staff Report to a date uncertain.

Mayor Holman: Do you want to speak any further to your Motion, Council Member Scharff?

Council Member Scharff: Yeah. I think it's a bad process. I'll say, if we were going to take up the stuff that's controversial, at least the Planning Commission thought it was controversial, and I do think it'll take some time to have these discussions. I know Council Member DuBois wants to go beyond these four and talk about more. It's really hard to be focused and thoughtful on complicated issues the later we get. We do have a Council meeting on Wednesday, where we start this process again. I think it's tough on Staff to continue on past 11:00 on this stuff. I don't believe for a minute—it's 10:30 now—that we'll get through all of these in half an hour. I think we'll be here to midnight. I just don't want to be here trying to do this stuff at midnight.

Mayor Holman: Council Member Kniss, want to speak to your second?

Council Member Kniss: I'm just going to read from the Staff Report. It said we're invited to provide comments and we may suggest items to be added. The Staff request Council note that the PTC hasn't discussed Tier 2 items; therefore, Council's discussion of Tier 2 should be brief at this time. Next year we'll have opportunity to provide input into the Tier 2 effort. I would agree with Council Member Scharff. We've been at it since 5:00. We've been at this particular item now for four hours. It's a long time to be making these really long-term, very specific and very far-reaching decisions at this hour. I think in fairness to the public who doesn't appear to be here—I hope they're still watching somewhere—that we should put this off 'til a time when we could have a more thorough discussion on it.

Mayor Holman: Council Member Wolbach.

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Council Member Wolbach: I just want to be very clear. From Staff, is there anything that we've not addressed yet tonight that you need to hear from us this evening about?

Mr. Lait: I mean, we'll get by doing what we're doing. I will tell you the two items on that list right there are daily challenges for us. The bottom line is it's not going to be a short conversation. I think it's appropriate for that to come back when we come back with the ARB findings. I think the basement discussion is—that one actually may be quick. I mean, you either agree with us that it's exterior walls or not. If it's not that quick, then we can bring that one back too.

Mr. Keene: I would add support to that, even though I think we should be ending up now. If you can really do this in 10 minutes or something and if you can't, if you start getting into it, then we ...

Council Member Kniss: We can't do it before 11.

Mr. Keene: ... ought to pull the plug on it or something. If you can give a quick response as Jonathan maybe naively thinks that you can, we could do that. If not, I just think if we start going down a rabbit hole, then we ought to (crosstalk).

Council Member Scharff: I'm willing to take up (crosstalk).

Council Member Wolbach: Actually I still have the floor.

Council Member Scharff: Hmm?

Council Member Wolbach: I think I still have the floor.

Mayor Holman: Vice Mayor Schmid (inaudible) Cory does still have the floor. That's right.

Council Member Wolbach: Thank you. I don't think that any of these can be done in the next half hour, let alone all four of them. I support the Motion to move forward—to continue everything. I don't think that we were prepared because of the paragraph at the top of page 19 in the Staff Report that Council Member Kniss just read. I don't think that Council nor the public was fully prepared for engaging in these items this evening, and we should defer it to a later date.

Mayor Holman: Vice Mayor Schmid.

Vice Mayor Schmid: The first item here has gone through the Policy and Services Committee with a recommendation. The height exceptions we

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talked about earlier. As an approved part of it, the definitions are also something that could be straightforward. I guess I would make a Motion that we set a hard deadline at 11:00, and see if there are some of these that can be dealt with upfront.

Mayor Holman: Second.

SUBSTITUTE MOTION: Vice Mayor Schmid moved, seconded by Mayor Holman to set a hard stop of 11:00 P.M.

Mayor Holman: Do you want to speak any further to your Motion?

Vice Mayor Schmid: No.

Mayor Holman: I'll speak just briefly. I mean, it was made pretty clear that Staff wants responses to these four items. Let's see how many of them we can get done by 11:00, and we'll have a hard stop there. It's pretty clear I do certainly hear what Council Member Kniss read in the Staff Report, but I know what Staff's communication has been, they want responses to this. You heard Jonathan talk about how some of these are daily challenges. The substitute Motion is to ...

Council Member Scharff: Which one are we starting with?

Vice Mayor Schmid: At the top.

Mayor Holman: At the top, yes. Have a hard stop at 11:00.

Mr. Keene: Can I interrupt? Because the Staff said the two bottom ones were the most critical. The bottom one is too much time; they've already given you their sense on that. I think the Staff tends to underestimate. The only one they said could possibly go quickly is the footprint, home basements. It seems to me if you're going to do this, you should start with that one and see if you get that done in five minutes, then you've got more time to tackle something else.

Mayor Holman: The first one's already been to Policy and Services though.

Mr. Keene: An incentive-based scheduling.

Mayor Holman: The Motion on the board you see is to have a hard stop by 11:00. Vote on the board please. That fails on a 4-4.

SUBSTITUTE MOTION FAILED: 4-4 DuBois, Filseth, Holman, Schmid yes, Burt absent

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Mayor Holman: We return to the main Motion, which is to continue Attachment E of the Staff Report to a date uncertain. Vote on the board please. That passes on a 5—sorry Jonathan—on a 5-3 vote.

MOTION PASSED: 5-3 Filseth, Holman, DuBois no, Burt absent

12. PUBLIC HEARING: Certification of the Final Environmental Impact Report (FEIR) and Approval of the Record of Land Use Action to Allow Demolition of Four Existing Structures Totaling 265,895 Square Feet and Construction of Four Two-Story Office Buildings Totaling 265,895 Square Feet of Floor Area With Below and At-Grade Parking and Other Site Improvements Located at 1050 Page Mill Road. Zoning District: Research Park (RP). Environmental Assessment: An Environmental Impact Report has Been Prepared. (STAFF REQUESTS ITEM BE CONTINUED TO JANUARY 11, 2016).

Inter-Governmental Legislative Affairs

None.

Council Member Questions, Comments and Announcements

Mayor Holman: With that, we move to Council Member Questions, Comments and Announcements. Seeing none, meeting is adjourned at 10:33.

Adjournment: The meeting was adjourned at 10:33 P.M.