

CITY OF PALO ALTO CITY COUNCIL TRANSCRIPT

Special Meeting June 15, 2015

The City Council of the City of Palo Alto met on this date in the Council Chambers at 5:08 P.M.

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

Wolbach

Absent:

Special Orders of the Day

1. Presentation of a Donation Check from the Palo Alto Library Foundation to the Palo Alto City Library.

Susie Thom, Palo Alto Library Foundation President: Good evening, Mayor Holman, Vice Mayor Kniss and Council Members. I'm Susie Thom, a resident of Palo Alto and President of the Palo Alto Library Foundation. The mission of the Palo Alto Library Foundation is to spearhead fundraising campaigns to support a modern, dynamic library system that meets the needs of everyone in our City. With the reopening of the Rinconada Library last February, the last of our City libraries to be remodeled, that's exactly what we have: vibrant library locations with modern facilities and fantastic programming, dozens of new computers and thousands more books, DVDs and e-books for the City collection. The Palo Alto Library Foundation Board of Directors believes we have completed our mission. Early this year, we voted unanimously to cease operations on June 30, 2015, the end of our fiscal year. Over our 14 years, we have had 22 Board Members, been the grateful recipient from 1,973 members of our community, received gifts ranging from \$5 to \$1.5 million and, with our gift today, provided the City with \$4.8 million for our libraries. One of our Board Members has graciously put together our history in this binder, and we'll be giving that to the Palo Alto Historical Association. Due to the generosity of our donors, we exceeded the Launch Our Libraries fundraising goal. It's our pleasure to present a check for \$320,000 to the City dedicated specifically for our libraries. I'd like to recognize our former and current Board Members, who are behind me. We have some of our founding Board Members with us tonight as well. If you would stand please. If all of you could please join us as we celebrate our

Foundation's success, our City's modern, dynamic library system and our donors who made it all possible. Thank you very much.

Mayor Holman: Susie, you were so efficient in your presentation. Do you want to take a moment and introduce the Members of the Foundation, since they're here. I hope it's not putting you on the spot.

Ms. Thom: We have with us, sitting on my far right with the white hat, one of our founding Members and I believe she was the first President of the organization, Mary Jean Place. You all know Lanie Wheeler. This lovely gentleman in the middle I have not met. I think he was there before I was. Robert Jack. The same with the lady beside him. I'm sorry, but I don't know her name. Amy Greene. You all know John Melton. We have our Staff members who provided incredible support, Lynn Drake and Gayle Fulish. I think you all know Leo. Behind them we have Jocelyn Alexander, Michael Hall, our Treasurer Lenore Jones. Of course you all know Alison. Then we have Sigrid with us. Bern and last but not least Lynne Russell.

Mayor Holman: That's Alison Cormack, Sigrid Pinsky and Bern Beecham. Thank you all so very much. Well done. We are very much appreciative.

Monique le Conge Ziesenhenne, Library Director: To close this, we have a short video of the opening day at Rinconada, similar to the one we did for Mitchell Park. I've got that to wrap this up. [Video presentation shown] That was February 14, 2015, the final project of the bond projects. You saw some of the outcomes of the hard work that the Foundation offered to the community. I, as a Library Director, want to express my appreciation and thanks. The amount of time that they have put into this has been truly remarkable. We have a wonderful, wonderful library system to show for it. Thank you.

Mayor Holman: I know at least one other Council Member and I have taken advantage of your invitation to tour some of the libraries most recently, Monique. I have five favorite libraries. Thank you all to our volunteers. You made this happen, along with our City Staff. We're very well served by our Staff and citizen volunteers. Thank you all so very much.

Vice Mayor Schmid: I can't tell you the number of smiling people I've run into in and around our new libraries who have said it was worth the wait. Thank you for making it happen.

Agenda Changes, Additions and Deletions

Mayor Holman: It's been requested, due to the number of Staff that we thought were going to be here, that we would be moving Items 14 and 15 ahead of 13. City Manager, is that still the case?

James Keene, City Manager: That is correct, Madam Mayor.

Mayor Holman: We'll take a motion from Council to move Items 14 and 15 ahead of Item 13. Can I have a motion please?

Vice Mayor Schmid: Second.

MOTION: Council Member Kniss moved, seconded by Vice Mayor Schmid to hear Agenda Item Numbers 14- PUBLIC HEARING AND PROPOSITION 218 HEARING: Adoption of Budget Amendment Ordinance for Fiscal Year 2016... and 15- PUBLIC HEARING AND PROPOSITION 218 HEARING: Staff Recommendation That the City Council Adopt a Resolution Amending Rate Schedules... before Agenda Item Number 13- Discussion and Direction to Staff Regarding Establishment of an Office/R&D...

MOTION PASSED: 9-0

Mayor Holman: Vote on the board please. That passes unanimously.

MOTION PASSED: 9-0

City Manager Comments

James Keene, City Manager: A couple of items to report. We've been reporting on this pretty regularly, but the day is drawing near where our new residential food scrap composting collection program will start. It starts on July 1st. We have started to put tags on trash cans for those folks who have pickup on Monday, for example. There's now a tag that's put on the regular garbage cart that will explain the start of the program and to start to use the green bins. Our residents will be able to put food scraps and soiled paper in their green cart along with their yard trimmings. We will take the collected material to the Zero Waste Energy Development Company in San Jose where it will be anaerobically digested and composted, creating renewable energy Once again, there will be four public meetings about the program: June 24, June 27, July 7 and July 11. More information about the program is available online at cityofpaloalto.org/foodscraps or by calling 650-496-5910. VTA has issued a call for projects. Unfortunately it was late this last month that we learned of this. We received a request from VTA, the Valley Transportation Authority, to update projects on the list included in the

Valley Transportation Plan for 2040. That request came in the form of a call Project submittals must include a defined budget and a planning study for the capital project; although, these are requested at a high level of detail, a summary level of detail. Once submitted, the projects will go through an evaluation process before being approved by the VTA Board of Directors for final inclusion in this long-range plan. More to the point, in the near term we expect the priority projects in the long-range plan could also be priority projects for funding in any future sales tax measure county-wide. Since there's talk pointing towards a 2016 sales tax measure, this process and these projects bear special importance. Our City already has many projects on the list contained within the long-range plan. With the assistance of some of our Staff within the organization, Acting Chief Transportation Official Jim Lightbody who was formerly with VTA, has started updating and adding other City projects based on prior Council direction and existing City policies. Caltrain safety including grade separations, bicycle plan implementation, improvements to the University Avenue Transit Center area and other longstanding priorities are examples. Also while our Staff is currently working towards the VTA's original deadline to submit these of July 10, which has made it impossible for us to get discussion with the Council, we and other cities have asked VTA to extend the deadline so that we'll have an opportunity to schedule discussions with our respective City Councils. VTA is supportive of pushing this to at least, say, the end of August. The Mayor and I have talked about her interest in trying to get this into later in Our understanding is VTA is seeking an extension of the timeline from the Metropolitan Transportation Commission, MTC. We'll keep you posted later on this week to see the progress of where we are. Regardless of the deadline, we will provide the recommended list of projects to the City Council along with the schedule for the follow on process, since getting the City's priorities on the final list will require input to the VTA by Staff and our elected officials at appropriate times. A number of you are involved in a variety of interface meetings with VTA and other folks across the county. An initial report and then more to come on this. Assistant City Manager Ed Shikada is working on this and trying to run interference to news that we have all received related to impacts on the 101 freeway over the San Francisquito Creek. Caltrans has begun restriping 101 in preparation for widening the creek bridge, which is related to the longawaited JPA flood control project. The project will remove and replace the 101 bridge over San Francisquito Creek as well as the bridges over the creek at both West Bayshore and East Bayshore Road. New and larger bridges will provide increased protection from flooding to Palo Alto and East Palo Alto. Caltrans has started work on the bridge construction. It is expected that construction will occur—we'll get a much better sense of the impacts in the coming weeks I hope—over a three-year period, with most of the work taking place from June to October due to seasonal restrictions on

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construction within the creek. The freeway reconfiguration on 101, however, we expect to be continuous over the three-year duration of the project. As Council is well aware, it has already triggered some significant traffic backups on the 101 freeway with motorists diverting onto local streets. We've been in touch with Caltrans who is now very aware of the need to better manage the traffic and minimize disruption and spillover into residential neighborhoods. We have information on the City's website at cityofpaloalto.org/us101 that includes links to the Caltrans project page. Folks can also sign up on the Caltrans project site to receive updates and construction alerts on the project. We will keep the Council and the community updated. We were surprised by this schedule, I'll be honest. We'll have more updates to the Council, but I know some of our neighborhoods have been especially concerned. Lastly a reminder. I know that we had at least one speaker, of course, last week on World Music Day. Just a reminder that on Sunday, June 21st, from 3:00 to 7:30 P.M. on University Avenue, we will close University Avenue to traffic, and there will be performances there and at King Plaza at City Hall sponsored by the Palo Alto Recreation Foundation and Stanford Federal Credit Union. music festival that takes place on every Father's Day. Those of you who have been there, it's quite a fun event. Folks who have not made it, encourage people to try to come out next Sunday, June 21st, from 3:00 to 7:30 P.M. That's all I have to report.

Oral Communications

None.

Consent Calendar

Mayor Holman: I see no indication to pull anything, got no word of that. We need a motion for approval of Consent Calendar.

Vice Mayor Schmid: So moved.

Council Member Wolbach: Second.

Mayor Holman: Motion by Vice Mayor Schmid, second by Council Member Wolbach, to approve the Consent Calendar.

MOTION: Vice Mayor Schmid moved, seconded by Council Member Wolbach to approve Agenda Item Numbers 2-12A.

2. Approve and Authorize the City Manager or Designee to Execute the Following Energy Efficiency Evaluation Support Contracts in a Combined Not to Exceed Amount of \$250,000 per Year for a Three-

Year Term With an Option to Extend Either or Both Contracts for an Additional Two Years: (A) TRC Engineers, Inc. in an Amount Not to Exceed \$210,000 per Year; and (B) Energy & Resource Solutions, Inc. in an Amount Not to Exceed \$40,000 per Year.

- 3. Approval of Contract No. C15158881 for \$270,000 With Palo Alto Housing Corporation for Provision of Below Market Rate (BMR) Administration Services Over a Two Year Period.
- 4. Approval of Amendment No. 2 to Contract No. C09124501 With GreenWaste of Palo Alto That Would Increase Zero Waste Services, Increase Efficiencies, Increase the Annual Costs by Approximately \$1,366,000 in FY2016, to Support Composting and Anaerobic Digestion Programs; and Extend the Contract Term for an Additional Four Years to End June 30, 2021; Adoption of Resolution 9517 Entitled, "Resolution of the Council of the City of Palo Alto to Revise Utility Rules and Regulations No. 2, 3, 11 and 24 to Reflect New Zero Waste Service Changes."
- 5. Approval of a \$9,500 Grant From Silicon Valley Creates, a \$9,600 Grant From the National Endowment for the Arts, a \$45,000 Contribution From the Friends of Palo Alto Children's Theatre and Adoption of a Related <u>Budget Amendment Ordinance 5328</u> Entitled, "Budget Amendment Ordinance of the Council of the City of Palo Alto to the General Fund in the Amount of \$64,100."
- 6. Approval of a Contract With Graham Contractors, Inc. in the Amount of \$1,311,073 for The FY 2016 Preventive Maintenance Project, the First of Four Contracts in the FY 2016 Street Maintenance Program Project (CIP PE-86070).
- 7. Approval of a Three-Year Contract With an Option of Two, One-year Extensions With American Guard Services, Inc. in the Amount Not to Exceed \$321,215 Per Year for the First Two Years, and \$328,624 for the Third Year and Authorization for Additional But Unforeseen Work Not to Exceed \$32,121 Per Year for the First Two Years and \$32,862 for the Third Year.
- 8. Confirmation of Appointment of Edward Shikada as Assistant City Manager and Approval of Employment Agreement.
- 9. Resolution 9518 Entitled, "Resolution of the Council of the City of Palo Alto Authorizing Public Works Department to Submit a Function Classification Request to Caltrans to Formally Add the Streets

- Reclassified as Part of the 1998 Comprehensive Plan to the Caltrans System Map."
- 10. Approval of Contract Amendment No. 1 to Contract No. S14152995 in the Amount of \$14,949 With Balance Hydrologics, Inc. for the Design and Implementation of an Enhanced Flood Warning System for the San Francisquito Creek Watershed.
- 11. Adoption of Fiscal Year 2016 Investment Policy.
- 12. Resolution 9519 Entitled, "Resolution of the Council of the City of Palo Alto Approving the Fiscal Year 2016 Water Utility Financial Plan and Amending the Water Utility Reserve Management Practices;" 2)

 Resolution 9520 Entitled, "Resolution of the Council of the City of Palo Alto Approving the Fiscal Year 2016 Wastewater Collection Utility Financial Plan and Amending the Wastewater Collection Utility Reserve Management Practices;" 3) Resolution 9521 Entitled, "Resolution of the Council of the City of Palo Alto Approving the Fiscal Year 2016 Electric Utility Financial Plan and Amending the Electric Utility Reserve Management Practices;" and 4) Resolution 9522 Entitled, "Resolution of the Council of the City of Palo Alto Approving the Fiscal Year 2016 Gas Utility Financial Plan and Amending the Gas Utility Reserve Management Practices."
- 12A. Approval of a Three-year Contract With Municipal Resource Group (MRG) for Council Appointed Officers Evaluations for an Amount Not to Exceed \$123,000.

Mayor Holman: That passes unanimously.

MOTION PASSED: 9-0

Action Items

14. PUBLIC HEARING AND PROPOSITION 218 **HEARING**: Amendment Ordinance 5329 Entitled, "Budget Amendment Ordinance of the Council of the City of Palo Alto for Fiscal Year 2016, Including Adoption of Operating and Capital Budgets and Municipal Fee Schedule; Five Resolutions, Including: 1) Resolution 9523 Entitled, "Resolution of the Council of the City of Palo Alto Adopting a Dark Fiber Rate Increase of 2.7 Percent and Amending Utility Rate Schedules EDF-1 and EDF-2; " 2) Resolution 9524 Entitled, "Resolution of the Council of the City of Palo Alto Amending Utility Rate Schedule D-1 (Storm and Surface Water Drainage) to Increase Storm Drain Rates by 2.7 Percent Per Month Per Equivalent Residential Unit for Fiscal Year

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2016;" 3) Resolution 9525 Entitled, "Resolution of the Council of the City of Palo Alto Adopting a Wastewater Collection Fee Increase of 9.0 Percent and Amending Utility Rate Schedules S-1, S-2, S-6, and S-7;" 4) Resolution 9526 Entitled, "Resolution of the Council of the City of Palo Alto Adopting Residential Refuse Rate Increases Ranging Between 9.0 Percent and 19.0 Percent, and Amending Utility Rules and Regulations 2, 3, 11, and 24; 5) Resolution 9527 Entitled, Resolution of the Council of the City of Palo Alto Amending the Salary Schedule Attached to the 2014-2016 Compensation Plan for Management and Professional Employees, as Amended by Resolution No. 9053 to Add One New Position and Change the Title of Two Positions; Amending the 2013-15 Memorandum of Agreement Service Employees International Union (SEIU), Adopted by Resolution No. 9398 to add One Position and Correct the Salary of One Position; and Amending the Terms for the Management Professional Association, as Amended Resolution Nos. 9492 & 9503 to Correct the Salary for One Position and Add Two New Positions; and Refer to the Finance Committee a Discussion of Changes to the Public Art Ordinance to Simplify the Calculation of the Public Art Fee and a Discussion of Usage and Replacement of Pool Vehicles (Continued From June 8, 2015)."

Mayor Holman: We'll turn to the public hearing portion of the item. The Council conducted its first public hearing on the budget and utility rate changes on June 8, last week. Tonight we'll conduct our second and final hearing on the budget and related items. A portion of this hearing will be related to changes in wastewater and refuse rates, and this portion of the hearing is governed by Prop 218. Would the City Attorney like to give us some background on 218, please?

Molly Stump, City Attorney: Thank you, Mayor Holman. City Attorney Molly Stump. The procedure for tonight's refuse and wastewater changes follows the requirement of California Constitution Proposition 218, which was adopted by the voters in 1996. It sets forth procedures that local governments must follow when they increase property-related fees. Our Supreme Court has said that both of these types of fees are subject to the Prop 218 procedural rules. The public has received notice of these potential rate increases, and the Council needs to hold the public hearing, which closes with the majority protest procedure. If 50 percent plus one of the affected property owners opposes or protests the rate increases, then they cannot be imposed tonight or adopted by the Council. Thank you.

Mayor Holman: Before I begin the public hearing, there's a process for this portion of the hearing. All residents and other interested persons will have an opportunity to speak and provide testimony this evening either

individually on the wastewater and/or refuse rates or both. To be valid, protests on the proposed rate increases must be written, signed and submitted to the City Clerk before the close of this hearing. The protest must also identify the parcel and the rate being protested. Although the wastewater and refuse rate increases are being considered together in one public hearing, the presence or absence of a majority protest will be calculated separately for each rate. The City Clerk will accept written proposals until the public hearing on this matter is closed. At the conclusion of this public hearing, the City Clerk will count the number of written protests against the proposed rate increases, and the Council will determine whether a majority protest exists for each rate. If a majority of customers and property owners have not submitted protests by the close of the public hearing tonight, the City Council may adopt the new wastewater and refuse rate schedules as part of the ordinance adopting the budget for Fiscal Year 2016. We can now open the public hearing on this item. I have no speaker cards.

Public Hearing continued from June 8, 2015.

Public Hearing closed at 5:31 P.M.

Mayor Holman: We'll close the public hearing. Before we turn to discussion, we'll first tabulate the written responses pursuant to Prop 218. City Clerk? We can begin with wastewater. There are 20,858 property owners and wastewater consumers subject to the rate increase, so 10,429 protests are needed to create a majority.

Beth Minor, City Clerk: Mayor Holman, we have received six protest letters for wastewater, and seven letters for refuse.

Mayor Holman: Since the number of protests received for wastewater rates is not a majority, the rate change shall be made a part of the ordinance adopting the budget for Fiscal Year 2016. Consistently, since the majority to protest refuse rates has not received the adequate number, the motion to adopt the refuse rate changes shall be made as part of the ordinance adopting the budget for Fiscal Year 2016. Before we begin the discussion and proposed adoption of the ordinance, resolutions and other matters related to the adoption of Fiscal Year 2016, I understand the City Attorney has a few comments about potential conflicts.

Ms. Stump: When the Council approves the annual budget each year, it typically faces a conflicts issue related to Stanford University. State law says that Council Members should not act on a matter where an entity or individual who is a source of financial interest to them is before the Council or foreseeably and materially impacted by a decision that the Council may

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make. That is the case this year with respect to Stanford University, which is impacted by a number of portions of our budget, specifically related to Police, Fire and parts of our CIP. Council Member DuBois' wife is an employee of Stanford. Under the conflict rules, he should not participate in this part of the budget. The State law does allow us to segregate this section of the budget off, hear it first without Council Member DuBois' participation, and then the Council can deal with the entire rest of the budget. Council Member DuBois may participate in that.

Council Member DuBois: I will be recusing myself.

Council Member DuBois advised he would not be participating in the budget as it related to Stanford University because his wife is employed by Stanford University.

Mayor Holman: Are there any questions regarding this portion of the budget? I'll ask for a recommendation by the City Council to adopt the portions of the Fire and Police Department Budgets and the CIP related to Stanford for Fiscal Year 2016 and related ordinance and resolution portions. Vice Mayor Schmid?

Vice Mayor Schmid: So moved.

Mayor Holman: Do we have a second?

Council Member Kniss: Second.

Mayor Holman: Vice Mayor Schmid moved, seconded by Council Member Kniss to approve the Finance and Staff recommendations that the City Council adopt the portions of the Fire and Police Department Budgets and CIP related to Stanford for the Fiscal Year 2016 and related ordinance and resolution portions.

MOTION: Vice Mayor Schmid moved, seconded by Council Member Kniss to approve the Finance Committee and Staff recommendation that the City Council adopt the portions of the Police and Fire Department Budgets and CIP relating to Stanford University for the Fiscal Year 2016 and related Ordinance and Resolution portions.

Mayor Holman: Can we have a vote on the board please? That passes unanimously with Council Member DuBois recused.

MOTION PASSED: 8-0 DuBois not participating

Mayor Holman: Now we will discuss the wastewater and refuse rates as well as the remaining portions of the 2016 budget including the remaining

portions of the Police and Fire Budgets and the CIP Budget. Are there any questions? Is there any Staff update on anything? I had asked a question about police. Is there any update on that?

Walter Rossmann, Office of Management and Budget Director: Walter Rossmann, Budget Director. We have a short update for you in a PowerPoint slide. This is the summary you received in the at-places memo which we distributed to the Council on Thursday via packet and this afternoon as well. It tells you where we are right now and where we stand with the tentative approval of the General Fund Budget as approved by the Council on Thursday, a budget surplus of \$390,000. This includes the reinstatement of the Code Enforcement Lead position as well as \$50,000 in automatic external defibrillator funding. On the second page there's two items which we'd like to discuss with you today in response to a Policy and Services Committee meeting which happened last week as well as regarding questions raised by the Council last week, Monday, regarding community policing. We'd like first to talk about the Project Safety Net funding. This was in front of Policy and Services on Wednesday last week. Based on the discussion, the City Manager would like to bring forward additional funding of \$80,000 for contract staffing. This is in the at-places memo we provided to you this evening just before you started the Council meeting. details, to some degree, the Policy and Services discussion regarding Project Safety Network and also outlines the potential future funding need which we have for the program. Jim, anything else you'd like to add on Project Safety Net?

James Keene, City Manager: The Committee had a good discussion, and we'll be coming back to the Council ultimately with a more in-depth discussion related to Project Safety Net out of the Committee's report. One of the components that the Committee was discussing in the recommended structure for how Project Safety Net would continue through this collective impact model was the importance of having a sophisticated data measurement program and the ability to measure progress through metrics against some of those data sets. We had a brief discussion at Committee about what that effort might take. I roughly identified a ball park figure of costing perhaps as much as \$100,000, but that's an unfocused number. We had a meeting last week with some of our consultants who are working on Project Safety Net issues with us, different researchers. One, there was a sense that we might actually, given the interest and concern in this project, be able to access a lot of pro bono assistance. Secondly, I did have a chance to talk with the School Superintendant about the need for us to share in whatever these costs might be. We felt it was most prudent right now not to bring any specific dollar figure to the Council, but to raise this issue and identify that we could be in a situation where we would want to seek some

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spending adjustments to the Project Safety Net budget as we make more progress on the new design. That being said, I don't know if you mentioned it earlier, we do have about \$25,000 in a fund within the Project Safety Net budget that we think has some flexibility and could allow us to make some initial expenditures in this area if we needed to going forward. Mostly, just to let you know that there are some potential other adjustments or conversations we'll have to have with the Council relating to products, services and funding.

Mr. Rossmann: Quickly, for the Council review. We brought up the budget for Project Safety Net on the PowerPoint slide. We don't have a hard copy for you yet. It shows on the last column the requested change for contract staffing in the amount of \$80,000. That would be the item we're asking for additional approval tonight.

Mayor Holman: I didn't hear a clear answer as to police.

Mr. Keene: We have various Staff here. We did ask to be sure that the Assistant Chief of Police was here. I see Bob Beacom here. Council Members had some questions; there were some issues related to more of an on-the-street police presence, both in Downtown and potentially California Avenue. It's some other general interest in a community-oriented policing approaches. If there's more you would want to add to that, other than that, Bob?

Bob Beacom, Acting Assistant Police Chief: Perfect, thank you. Holman and Council Members, good evening. My name's Bob Beacom and I'm the Acting Assistant Police Chief at the Police Department. I understand that there were a couple of questions that came up last week. I'm sorry we weren't here to answer those. Specifically in regard to community policing, associated with that is how we deploy our resources. I have a few things, if I may, to talk to you about on a high level, and then I'd be happy to answer any questions that you have. Let me start with community policing. There are a lot of different definitions of community policing and a lot of different thoughts on that. For our department, our philosophy is that community policing is working in a proactive partnership with our community to identify and solve problems. There is an expectation from the Chief down that our Staff members will embrace the philosophy. Any time we're working on an operational issue, the expectation is that we will work with our community to come up with solutions and ideas and solve problems as we go. As a matter of fact, we evaluate our employees in part on how they embrace our philosophy and what type of outreach that they do with the community. In relation to resource deployment, I can tell you that resource deployment for us is a daily exercise and activity. If I may, I'd like to give you a general

overview of how we deploy resources to start in our patrol division. As you know, we staff the streets 24/7 every day of the year. We have minimum staffing in the Police Department of six officers, a supervisor and a watch commander. Across the board we never go below six officers. In the City we have four different beats. On a daily basis our numbers go from six at the low end, and sometimes during the day they'll go up to eight, ten or twelve officers depending on overlap with shifts as they're coming in and going out. If we assume for argument's sake that we have six officers working on a dayshift, how we assign them is this. For our patrol division, our number one goal is to have at least one beat unit in every single beat. Our Beat 1 usually accounts for about 20 percent of our calls for service. That area is the entire area that is west of Alma and north of Page Mill Road. That's the area that includes the shopping center, Cal. Ave. district and that corridor along El Camino in the north end. That's Beat 1; it's about 20 percent of our calls for service. Beat 2 is our largest beat and busiest beat. That's the beat that covers Downtown. It's basically Alma Street east and then Oregon Expressway to the north. Beat 2 usually makes up about 45 percent of our calls for service. As I'll talk to you about in a moment, we deploy a great deal of our resources to the north end. If you carve out Downtown itself, that's about 21 or 22 percent of our calls for service across the City. Again, 45 percent is a big stat for calls for service. Our Beat 3 is our south end beat on the east side. Beat 4 is our south end beat on the west side. Those beats get about 15 to 17 percent of our calls for service. As you know, we have a special deployment team, set team, which is made up of four officers and a supervisor. They are specifically assigned to the Downtown area to work on quality of life issues. This team is very busy. A swing shift is normally where we have them working, and we ask them to be on foot or on a bike 50 percent of their time. Last year, we responded to 55,000 calls for service, and they made close to—give me one moment. In the Downtown area alone we made 957 arrests and wrote 889 citations. Beat 2 is a very busy beat. Beside our basic patrol function and making sure that we have a car in every beat throughout the day as our patrol teams—if we get additional bodies, we will either assign them to back up north, back up south. We supplement our beats with those additional bodies. We will direct them to work specific traffic problems, or we will give them other community issues that are pressing at the time. On a daily basis, we have our patrol officers, we have our special enforcement team out there on the We also have our traffic division working usually during the weekdays. That's a team of four people, and their main goal is obviously to work traffic enforcement and safety. It's not unusual for us to move them into certain areas of town when there are issues that come up from our community or that we see that need special attention. We will move all of our specialty units around as we need to. The last division that has a majority of our folks is our detective division. As you can imagine, they

spend a lot of time in the office. They're working on crime trends, crime issues and spending a lot of time with our regional partners. From a high level, that's how we deploy our folks. Again, I can tell you that the moving of the shells for us is a daily occurrence. We rely on a couple of things. One is our calls for service. Two is other data that we look at. We have heat maps; we have a predictive policing software program that we look at. The other side of it is what are our police officers telling us and what is our community telling us. That's how we deploy. I will close by saying that in the Fiscal Year 2016 there's money in the budget for us to do a police services study. We plan to do that. I'm sure that the selected vendor will have an opportunity to talk to you about your priorities on community policing and deployment. I'm certain that they will weigh in on our strategies for deployment. I'm sure we'll get some good information. Thank you. I'm happy to answer any questions.

Mayor Holman: Mr. Beacom, while you're there. Beat 2 is the Downtown. What are the geographic boundaries of that, if you would please?

Mr. Beacom: Beat 2 is the area that is east of Alma Street, that goes all the out to the freeway. The north end obviously is Palo Alto Avenue, and the south end is Oregon Expressway.

Mayor Holman: Just one other puzzlement to me. I'm glad there's a police services study in the budget. I have a puzzlement here, because I and others who spend a lot of time Downtown, I can't recall ever encountering a police officer afoot. Another Council Member has noted that they have seen police officers on bike, but I haven't seen that. This is a large beat, so maybe it's the dispersement. I've also gotten comments from the public saying that it seems like police officers on their feet could help deter some of the vandalism things we see, especially in the Downtown core area.

Mr. Beacom: Certainly. That's our problem if you're not seeing them and our community is not seeing them. That's part of the reason we have them on foot, so that the community feels safe and they know they're down there. We can talk about that. Certainly I know that these guys and girls on this team are creeping around. Maybe we need to pull them back on the creeping and have them a little more visual. They are spending their time Downtown unless we pull them off for some other issue.

Mayor Holman: I haven't done any extensive study of this on my own, but I have read things that indicate that visible police officers on the streets can be a crime deterrent. Maybe they're too stealth.

Council Member Wolbach: I wanted to address this also. Speaking only anecdotally, I have on a number of occasions had the chance to bump into

our officers working the Downtown beat. As the new Member of Council, especially when I was brand new to Council, not everybody on the force knows me by face. I wanted to commend the officers who I have had the chance to bump into in Downtown. Even before they realized who I was, always very friendly, very helpful and very engaging and very eager to engage with me and, from what I've seen, other members of the public. Of course, everybody's anecdotal experience will be different, but I did want to state for the record that I've definitely seen our officers out and about and doing a great job Downtown.

Mayor Holman: There's not a question of what kind of good job they do or dedication. It's a matter of strategic placement.

Council Member Kniss: Backward to Project Safety Net. Jim, I'm going to ask you this; you spoke to this before. The amount that we're currently seeing, this looks as though we have moved this around a bit. Currently we're at an amount for a Director that is what?

Mr. Keene: The total cost for this position is the \$198,000 figure under the 2016 amended proposed. It's right next to that \$80,000 addition.

Council Member Kniss: You and I have discussed that. That's probably in the range of looking at somebody who can run a collaborative. The second part of this which does or does not tie into Project Safety Net is the Track Watch. Last week we had seen a figure that was considerably higher than 315. We are now still at the 315 or the 198 is the contract staffing for Project Safety Net, correct?

Mr. Keene: No. Yes, I'm sorry. The 198 is the transition or the Executive Director position for running Project Safety Net.

Council Member Kniss: Where it says contract staffing?

Mr. Keene: Right. We have the \$315,000 only for six months of the Track Watch. The Staff memo identified the second half of the fiscal year would cost an additional \$168,000. That is not yet in the budget. That would be something we would have to come back to the Council for.

Council Member Kniss: We're approving this tonight, and you may come back to us with additional need for the Track Watch. Is Track Watch directly under Community Services and are they hiring those who are on the tracks? If not, who hires the track watchers?

Mr. Keene: The responsibility for managing the Track Watch program had been in Community Services. This year we have shifted it to the Police

Department to be the lead on managing the contract and the program. My understanding would be that the ...

Council Member Kniss: They're hiring them as well?

Mr. Keene: We have a contract with the firm who provides Track Watch. It's that firm who hires the individual people. That being said, we are going to go out to bid, my understanding is, after July 1st and rebid the Track Watch contract. We may be making some changes to the scope of the contract. It is quite possible that we could have a different annual cost in a new budget. Everything we've got here on the Track Watch cost for Fiscal Year '16 is tentative; although, we do think the \$315,000 provides us enough flexibility over roughly the first half of the year to operate. As I said, we would be coming back to the Council with a new contract award. The \$168,000 figure we have right now is based upon our experience with the current contract. Again, that number could shift.

Council Member Kniss: I hope that we will also move in the direction—I think we discussed this briefly at Finance—of sharing the costs of this entire program either with the School District or others who are interested. This fund is not a bottomless pit. It will be necessary for us to share this endeavor with others. People I've talked to are surprised that the School District wasn't sharing in it. That needs to be a conversation in the future, and perhaps now with the new Superintendant, that would be a conversation that you can have. It's important that we all share this. This has been a tough year for the City, a tough year for teens. In no way do I not support this, but at the same time it's a shared responsibility.

Mr. Keene: If I might add a little bit to Council Member Kniss' comments for the whole Council. This is one of the reasons why the Staff put the projected balance in the at-places memorandum that went to the Council. As you'll recall, the Council allocated \$2 million out of the \$4 million pot of Stanford Development Agreement funds that have been allocated towards health and safety. With this budget as proposed, if the Council adopts this tonight, at the end of this next fiscal year that balance in that fund would be down to \$764,000. That doesn't include this additional second year costs of \$168,000. Very quickly, if you were to look at that number, you're at below \$600,000. It doesn't include the work that we're doing with Caltrain right now about enhancing means restriction on fencing. Their proposal right now is to add additional fencing. I've been trading phone calls with Jim Hartnett, their CEO, today. Would have us paying for the vegetation removal as part of this section, and that's well over \$100,000. Depending upon what standard we come up with, there could be additional costs. It's without question that we have to treat the funding that we have set aside so far in

prior years and now as what we've always anticipated which is seed money to jump start an ongoing program. We've got to get sustainable funding sources including from other partners in some way to be able to carry this program forward, without a doubt.

Council Member Kniss: One last comment, if I might. Since we think of this program as primarily aimed toward teens, are we planning on staffing—because I've seen them there today—throughout the summer, even when school is not in session, during breaks and so forth?

Mr. Keene: Yeah, the program plan right now until we are feeling certainty is to, one, enhance means restriction along the track and obviously we're going to be running these technology pilots that should give us enhanced control and observation at the crossings. This funding is to keep Track Watch guards at all four of the grade crossings during the entire period in which any trains are running in Palo Alto. That's almost 24 hours a day.

Council Member Kniss: Thank you, Madam Mayor. I appreciate your letting me spend some time on that, because that's been a big concern not only to our Committee, but to others in the community as well.

Council Member Burt: I'd like to follow up on this area of expenses, first, on what I'll call the physical track security issues that the City Manager just spoke about. Jim, you mentioned that beyond the vegetation removal, it could be more capital dollars. We as a Council need to know that it's in all likelihood going to be more. It could be a significant dollar investment to provide that security. We ought to have that out there in anticipation, even though we don't know what that dollar amount is and it's not in the budget yet. It would be in our Capital Budget, is that correct?

Mr. Keene: Correct. We'd have to identify the funding source, but it would be a capital expense.

Council Member Burt: As far as Track Watch, as expensive as it is this has been a vital component in providing security to the tracks that has made a real difference to date. Despite its expense, I don't see a choice but for us to provide that service. On Project Safety Net, I was glad that that question was asked and answered as to who supervises Track Watch. The Policy and Services Committee had a discussion on this just last week. It has been this oddity that a security function, which is probably most arguably a public safety function, was being previously managed by Community Services Department. When that grew, it looked like Project Safety Net's budget was growing by that much. It's related to the same subject, but it is now where it more properly belongs, which is a public safety managed program. On the

Executive Director position, that proposed dollar amount, that includes both salary and contracted-employee benefits, is that correct?

Mr. Keene: That's my understanding, yes.

Council Member Burt: Is that the expected amount or an up-to amount? Has that been determined?

Mr. Keene: No, it's our best estimate as to what we think would allow us to compete and attract the right person. Obviously our past has demonstrated that building a sustainable program that can engage with the range of partners to ensure that we've got not only a good program but good funding, we're going to have to have the right structure and have the right leadership in place. We expect this to be sufficient, but the important thing is we get the right person to lead the program.

Council Member Scharff: I wanted to follow up on how this works in terms of hiring the person. Who would that person work for?

Mr. Keene: I can answer that, but I see Rob is in the audience. He's done the heavy lifting on the project impact model and the different options that were discussed at P&S. If that's okay, we'll tag team and get Rob engaged.

Rob de Geus, Community Services Director: Good evening, Council Members. Rob de Geus, Community Services Department. Good question, Council Member Scharff. Initially the individual will report to me out of Community Services. It's not a Staff person; it's a contracted person. It's part of a transition plan to move Project Safety Net into either an independent nonprofit which would be completely separate from the current partners or within one of the partner organizations that exist within the collaborative.

Council Member Scharff: I'm trying to understand exactly how this works. You're asking for 198,000 for Fiscal Year 2016. That starts what, July 1st. My understanding from reading this memo we got at places is that you're going out for an RFP. In my experience, if you get it done in three months, I'll be impressed. What's your sense on the timing of that?

Mr. de Geus: We're going to move very quickly on this. This'll happen over the summer. We would hope to have someone in place by beginning of the school year.

Council Member Scharff: Right. We're looking at September, right?

Mr. de Geus: August.

Council Member Scharff: The question I had in my mind is if you're going to go out for an RFP and go through this process, then do you really need the whole 198,000? You're going to have the position vacant for part of fiscal 2016 or are you planning on paying more than 198 for the ten months or nine months or eight months, which puts it over 200,000? I also wanted to get back to Council Member Burt's question. There are benefits associated with this position. We can contract out and what kind of benefits do we provide?

Mr. de Geus: It's something we can negotiate with the perspective employee. It's a contracted position, so it's not getting the City into a long-term liability arrangement on benefits.

Lalo Perez, Chief Financial Officer and Administrative Services Director: Council Member Scharff, to give the Council some comfort. This is in a separate fund. It's not in the Community Services budget, nor in the Police budget. It's in a special fund. Let's say you approve that and we come in at 160—just to throw a number out—those funds stay within that fund and earn interest. They're segregated funds; they're controlled. Only your authority would allow us to spend them.

Council Member Scharff: We won't have the Executive Board up and running. You're going to go ahead, do an RFP. It's a weird RFP, right? I haven't seen this before on City Council.

Mr. de Geus: A little different, yeah.

Council Member Scharff: On a contracted position. In the RFP, are you going to outline what sort of benefits and salary? It's not like you're interviewing people and then negotiate a salary. You're doing an RFP. I'm curious how that works.

Mr. de Geus: We're going to have to work closely with our HR folks. They've done these types of recruitments before, where it's a contracted position for a specific period of time. There'll be some language in the recruitment that would allow for some flexibility to negotiate what the pay will be. Largely it's the City paying them a cash compensation, and they will purchase their own benefits more than likely.

Mr. Keene: The line of questioning is a good one. It's a little tricky. Number one, the need to revamp the structure for Project Safety Net, which has been an effective collaborative, realizing that putting together a collaborative of all these various stakeholders around an issue is not an easy task. I'm trying to remember who was on Policy and Services last year when we were discussing this year. It was pretty confused last fall when we

were talking through the options related to where to go with Project Safety Net. Rob and the other members who have been working on this—P&S felt this the other night—have hit upon this approach that has a range of strong criteria about how to build a potentially good ongoing organization through this collective impact model, which is a fancy term for a high-performing collaborative. That being said, this is coming to a head precisely at the time that we've got to set a budget. All the pieces aren't worked out. We're saying, "Here's a funding amount we think would be necessary for a full year." Some of it is a little bit—symbolic isn't the right word—public in acknowledging that some of the lower pricing that we had in positions clearly didn't result in us being able to get or keep somebody in a sustainable way. Whether it's in the RFP or not, we expect that in the public domain somebody could look and see, "These guys are looking at this differently than they did before. We roughly could understand there could be \$200,000. This might be something that we're interested in." The other challenging part is that we're talking about putting out an RFP for somebody to come in on a transitional or interim basis. It's fair to say that we'd artfully be interested in seeing whether or not that same person might be somebody who could morph or transition to the permanent, if possible. That means that, even though we're going to be putting some things out there, we probably are asking this transitional person to help design what the more permanent piece will be. They then may or may not be fit for that. Having a budget that identifies sufficient funding is important. somebody on board by the end of August, that will be record time.

Council Member Scharff: You're going to bring this back to Council in terms of the RFP approval and all that kind of stuff?

Mr. de Geus: Yes.

Council Member Scharff: It seems that this person will actually be creating the position. They're going to create the Board; they're going to put the whole thing together. As part of that, they're going to go out and work out sustainable working sources, which means the City's not going to be paying the \$200,00 every year.

Mr. de Geus: That's a big part of their job, exactly right.

Mayor Holman: I have one clarifying question. Last week we moved to keep the Code Enforcement Lead position in the budget and directed the City Manager to propose an alternate position to remove from this year's budget to maintain a budget surplus. In the at-places document that we have, I'm wondering if page 2 of that—it's dated 6/8—the 1.0 Community Service Officer frozen position, is that the offset?

Mr. Rossmann: Correct, Mayor Holman. The motion was that we would have to provide you with a different position reduction, if we don't have a budget surplus. The budget surplus is at \$390,000. The Community Service Officer position was previously recommended to be frozen by the City Manager. Between the Finance Committee and the Council meeting on June 8, we froze that position.

Mayor Holman: The City Clerk has last week's motions to put on the screen. This was the main motion, and this can also be found on page 3 of the atplaces memo that starts "Summary of June 8 Fiscal Year 2016 City Council Budget Hearing." That's this document that's at places. You all should be familiar with that. We have more to address, but I want to make sure we catch it all. We need a motion and a second to ... I did not see that.

Council Member DuBois: Clarification. Before we move on this, are we discussing anything to do with the budget prior?

Mayor Holman: Yes, anything. I hadn't seen any more lights.

Council Member DuBois: Just super quick. Got a very interesting email at places from Bob Moss. He looked at all ten SSOs that were in place since 1992 when the ordinance was adopted. Single-story overlay. Interestingly, he indicated that no one had ever paid a fee for an SSO. I wanted to ask Staff does anyone know when the fee was instituted.

Mayor Holman: Council Member DuBois, this is coming to us on June 29th.

Council Member DuBois: I know. Based on this information, I wanted to see if there's a appetite to get rid of the fee since no one has ever paid it.

Council Member Burt: As a budget item.

Mayor Holman: As a budget item, okay. City Attorney, do we need to have a couple of recusals? You indicated this morning perhaps not if it's a broad topic, if I understood correctly.

Mr. Keene: I'm assuming that this is question and answer, not a policy discussion. Once you get into discussion, it's a different thing.

Hillary Gitelman, Planning and Community Environment Director: Thank you, Mayor Holman and Council Members. Hillary Gitelman, the Planning Director. Just to respond to that question. There is currently not a specific fee in the fee schedule for single-story overlays. What we've been thinking we would apply is the fee we used for any rezonings. That's what the folks have been reacting to negatively. The Council's direction at last week's

meeting was to look at an alternative approach. We prepared an Agenda Item for the 29th at your direction that will look at the same historical information that Council Member DuBois is referring to. We'll give the Council a couple of options including the option reflecting your motion from last week to cap the fee, make it a flat fee that is lower than the current base fee for rezonings.

Mayor Holman: Council Member DuBois, does that satisfy your question?

Council Member DuBois: It does. I would like to make a motion, so we probably need people to recuse themselves.

Council Member Wolbach: I'll be recusing myself for this portion of the discussion about the budget, because it addresses single-story overlay. We are having ongoing discussions about whether that requires my recusal. Out of an abundance of caution, I will step out.

Vice Mayor Schmid: I live in a neighborhood that might be involved, and so will recuse myself.

Council Member DuBois: Based on this information that no one's ever paid a fee, it's unusual that we're going to start charging a fee. I want to see if there's an appetite to replace our second motion from June 8th with something that says there will be no fees for single-story overlay applications.

Council Member Kniss: I would second it.

MOTION: Council Member DuBois moved, seconded by Council Member XX to remove fees for Single Story Overlay applications from the budget.

Ms. Stump: Madam Mayor, may I interject? This is a policy item, and it's not agendized before the Council tonight. What's before you is the budget. If you're looking at allocating funds or not appropriating funds, those are appropriate items. A policy change should be agendized so that the public has a chance to come. We also do have two Council Members who we do need to ask more detailed questions about what aspects of this type of item they could participate in. We have not had an opportunity to do that and weren't aware that the item would be raised again tonight.

Council Member DuBois: Could I specify that there are no funds in the budget allocated for this or planned for this?

Ms. Stump: The Council could do that as a budget matter.

Council Member DuBois: Council Member Kniss seconded it. We could leave it until June 29th. It seemed unusual to me that we're going to potentially charge people for this, and nobody's ever been charged before. I'll review it along the City Attorney's lines to say that there will be no planned revenue in the budget from single-story overlay fees.

Council Member Kniss: Does that work? I'll second it.

MOTION RESTATED: Council Member DuBois moved, seconded by Council Member Kniss that there will be no planned revenues from Single-Story Overlay applications included in the Fiscal Year 2016 Budget.

Mr. Keene: Let me interject. We had a long discussion last week on this. I mean a long discussion. Then it expanded into neighborhood preservation and then it retracted. We're going to be back in two weeks. I'm not saying that anything you could do now could be confusing. If suddenly ten neighborhoods came to the Planning counter tomorrow saying they heard something. We're doing a lot of unnecessary explaining that I feel would be better handled with the schedule that you've already set right now. You have adequate time then to make a policy decision. Even if you're on recess, we can start to enforce that. Along with what Molly said, there's no confusion about thinking this was going to come forward in two weeks and somehow we did something tonight.

Ms. Stump: Madam Mayor, may I?

Mayor Holman: Yes.

Ms. Stump: Thinking through the proposal, because these are potentially revenues and not expenditures, what you'd need to do as a budget matter would be to place money in the budget to cover Staff work which would customarily under our fee system have cost recovery fees associated with them. I'm not sure that fits very well with the structure of the item that's before you. Again, I am concerned that the public hasn't been specifically noticed that the Council would be discussing this policy item tonight.

Mayor Holman: Council Member DuBois, in principle and in theory I'm supportive of what you're proposing. To go along with what City Attorney is saying, we wouldn't know how much money to put in the budget to cover the cost of this. We don't know how much time; we don't know how many SSO applicants there might be. I concur on this occasion with the Staff that we should have this discussion on the 29th. It's just two weeks away.

Council Member Kniss: Could I comment?

Mayor Holman: Yes, please.

Council Member Kniss: I'm troubled by this. It's one of the times that I don't agree with Staff. This came to us in March. It came to us again at Finance. We had a long discussion about it. Why didn't somebody say to us where the 8,000 came from? We had a great, long discussion about \$8,000. A number of people are troubled in the community about \$8,000. I find it difficult to believe that we've done ten overlays and there has not been anything charged, unless we're now saying cost fee recovery and therefore we've got to go through a long policy of how much it is per house and so forth. I am simply not following this. We took it up in Finance. We took it up last week. We have now spent about four or five hours on this. To me, I would say at this point, "Great. Have another long discussion on June 29th." When the time comes, I'm going to vote to eliminate this fee and have it be an even playing field for everybody in the community that wants to do this, which is what we've done in the past. As Bob has pointed out—thank you, Bob, for doing that work-it looks like 700, 750 houses are covered currently. If that's what people want and if they qualify under the 60 or 70 percent rule, we should continue our policy from the past.

Ms. Gitelman: We've prepared a Staff Report which will go public this week for the 29th. Obviously we have the same information that Mr. Moss has. We talk about when the current fee for rezonings that totals about \$8,000 was put in place and all of the information that Council requested at your last discussion.

Council Member DuBois: I'll withdraw the motion and wait until the 29th.

MOTION WITHDRAWN BY THE MAKER

Mayor Holman: City Clerk, going back to the main motion that we had from last week.

Council Member Scharff: I was going to move the motion.

Council Member Berman: Second.

Mayor Holman: The motion that you're approving is the main motion that approves the inclusion of the \$50,000 for AEDs and Items A through G. Correct?

Council Member Scharff: That's correct.

MOTION: Council Member Scharff moved, seconded by Council Member Berman to approve the budget including \$50,000 for Automated External Defibrillators (AED), and amendments as discussed:

- A. Budget Amendment Ordinance which includes:
 - 1. City Manager's Fiscal Year 2016 Proposed Operating and Capital Budget; and
 - 2. Amendments to the City Manager's Fiscal Year 2016 Proposed Operating and Capital Budget; and
 - 3. Revised City Table of Organization; and
 - 4. Fiscal Year 2016 Proposed Municipal Fee Changes; and
- B. Resolution Adopting a Dark Fiber Rate Increase of 2.7 Percent and Amending Utility Rate Schedules EDF-1 and EDF-2; and
- C. Resolution Amending Utility Rate Schedule D-1 (Storm and Surface Water Drainage) to Increase Storm Drain Rates by 2.7 Percent Per Month Per Equivalent Residential Unit for Fiscal Year 2015; and
- D. Resolution Adopting a Wastewater Collection Rate Increase of 9.0 Percent and Amending Utility Rate Schedules S-1, S-2, S-6 and S-7; and
- E. Resolution Adopting a Refuse Rate Increase of 9.0 Percent and Amending Utility Rate Schedule R-1; and
- F. Resolution Amending Salary Schedules for the Management, Professional, and Confidential Unit, the Utilities Managers of Palo Alto Professional Association, and the Service Employees International Union:
- G. Refer to the Finance Committee a discussion of changes to the Public Art Ordinance to simplify the calculation of the Public Art Fee and a discussion of usage and replacement of pool vehicles.

Council Member Scharff: We've been through this a lot. In the interest of time, we have a lot to do. If it becomes controversial, I'm happy to speak to it. I'll reserve that. At this point, it's easier to move forward.

Council Member Berman: Same here.

Mayor Holman: We do have a couple of other cleanup things that we'll add as separate motions, since they were tentative last week. On this portion of the motion, would Council Members vote on the board please?

Council Member Kniss: Mayor, could I add one quick thing? It will not alter the vote.

Mayor Holman: Can we vote on this, and then we have some add-ons anyway?

Council Member Kniss: Didn't we vote?

Mayor Holman: Now we have. That passes unanimously.

MOTION PASSED: 9-0

Council Member Kniss: It simply is to reiterate what we did before, which is that Vice Mayor Schmid did a very good job on this. We disagree on the number of hours. He thinks it was only 25; I think it was about 35. Who's quibbling over a few hours? Overall, you did a good job, Greg. Thank you.

Mayor Holman: Question for Staff. We did have some other directionals from last week, including the two having to do with single-story overlays that will come to us on the 29th. We do not need to reiterate those, correct?

Mr. Rossmann: That is correct. They were not tentatively approved. They were approved by the Council. However, the motion on the ...

Mayor Holman: I'm getting to that. We also had a consideration of stronger encroachment fees for construction that impacts a portion or all of a City street or sidewalk. Do we need to confirm that motion tonight because that was also tentative last week?

Mr. Rossmann: My understanding is that it was not tentative. If you would like to confirm, Mayor, that will be fine.

Mayor Holman: That's the encroachment fees. I don't want to do these individually, because we passed them last week tentatively. We have also to keep the Code Enforcement Lead position in the Fiscal Year 2016 budget. Direct City Manager to propose an alternate position to be removed. We don't need that part of the motion right now. Lastly, would be to direct Staff and Finance Committee to return in six months with an update on the Animal Shelter. There was one last directive from last week, which was Staff to investigate increasing Business Registry participation up to and including increasing the late fees. Council Members, these were all

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tentatively approved last week, so I'm hoping we can have a single motion to approve all of these this evening.

Mr. Rossmann: Mayor Holman, one more thing. This \$80,000 for Project Safety Net, if you could include that in the motion as well.

Mayor Holman: Yes, thank you.

Council Member Kniss: If we haven't anything else, I would move approval of the motion you've just read, unless you prefer to keep it your motion, Mayor Holman.

Mayor Holman: No. I'm fine with it all being one fail swoop. We need a motion to approve.

Council Member Kniss: I moved.

Mayor Holman: We need a second.

Council Member DuBois: Second.

Mayor Holman: Motion by Council Member Kniss, second by Council Member DuBois to approve the additions that we just lined out, "A" through "E."

MOTION: Council Member Kniss moved, seconded by Council Member DuBois to:

- A. Refer to the Finance Committee consideration of stronger encroachment fees for construction that impact portions or all of a city street or sidewalk; and
- B. Keep the Code Enforcement-Lead position in the Fiscal Year 2016 Budget; and
- C. Direct Staff and the Finance Committee to return in six months with an update on the Animal Shelter; and
- D. Direct Staff to investigate increasing Business Registry participation up to and including increasing late fees; and
- E. Include an additional \$80,000 for Project Safety Net.

Mayor Holman: Vote on the board. Those pass unanimously.

MOTION PASSED: 9-0

Mr. Keene: Madam Mayor, before we move on to the rates, if the Council would indulge me in thanking the Staff for their work along with the Committee. Walter Rossmann is the Director of the Office of Management and Budget. His team, who is here this evening, Christine Paras, Eric Bilimoria, Michael Bruckner, Paul Harper and Sean O'Shea, did work countless, countless hours during evenings and weekends to put this budget together. Thanks to Chief Financial Officer Lalo Perez and Joe Saccio and Teren Narian in ASD along with Monica Williams and Julia Pollard. Lastly I see some of them leaving, but all of the department heads and their Staff.

15. PUBLIC HEARING AND PROPOSITION 218 HEARING: Resolution 9528 Entitled, "Resolution of the Council of the City of Palo Alto Amending Rate Schedules W-1 (General Residential Water Service), W-2 (Water Service from Fire Hydrants), W-3 (Fire Service Connections), W-4 (Residential Master-Metered and General Non-Residential Water Service), and W-7 (Non-Residential Irrigation Water Service) to Increase Average Water Rates by 8 Percent (Continued From June 8, 2015)."

Mayor Holman: We will turn to the public hearing portion of this item. The Council conducted its first public hearing on water rate changes on June 8. Tonight we will conduct our second and final hearing on the water rates. This portion of the hearing is governed by Prop 218. Before we begin the hearing, City Attorney will provide some background information.

Molly Stump, City Attorney: You're probably done hearing from me on Prop 218. Water rates are indeed a property-related rate, so the procedural requirements of Prop 218 apply. There will be a majority protest hearing that will be concluded tonight before the water rates are adopted. Back to you, Madam Mayor.

Mayor Holman: Before we begin this hearing, the process for this hearing is as follows. All residents and other interested persons will have an opportunity to provide testimony this evening on the water rates. To be valid, protests to the proposed rate increases must be in writing, signed and submitted to the City Clerk before the close of this hearing. The protest must also identify the parcel and the rate being protested. The City Clerk will accept written protests until the public hearing on this matter is closed. Protestors can submit comments at this meeting. At the conclusion of this public hearing, the City Clerk will count the number of written protests against the proposed rate increases, and the Council will determine whether a majority protest exists for each rate. If a majority of customers and property owners have not submitted protests by the close of the public

hearing tonight, the City Council may approve the resolution adopting the new water rate schedules.

Public Hearing continued from June 8, 2015.

Stephanie Munoz: Good evening, Council Members. I have a couple of comments about water that I hope you can include in your deliberations. First of all, water is an odd thing in that it comes to you. Once in a while there are accidents, not in an apartment building—there may be, but we wouldn't know it. A pipe breaks. I noticed some of the private companies have gone to insurance. If your pipe breaks, somebody comes out and fixes it, and you pay a certain amount per month, like any other insurance, but then that takes care of it. What it does not include is all the extra water that's lost. I'm sure you would look askance at my proposal that there be this insurance, that it be offered to everybody and made clear what it's about, and that the extra water be insured against that expense. You're not going to get the water back. You can try to make ways that people can guard against a break in the pipe. That would be good too. The other thing is this. We haven't done nearly enough with reclaiming water, bath water, I know people who have conduits from their washing washing water. machine or their dishwasher, and they go outside, and they feed the plants water. I believe you should have incentives for people to do that. First of all, every new house along the same lines as making apartment owners put in electric car accommodations. You should have requirements that any building that uses water have arrangements to capture the used water, gray water. Not only should there be no permits, but there should be a facility down at Planning where people could go and learn how to retrofit to do it. That's all I have to say. I hope I was clear enough; I don't know. I tried to promote the use of the used water which is perfectly good, and the plants would be grateful for it. Thank you.

Public Hearing closed at 6:33 P.M.

Mayor Holman: We'll have a tabulation of the protests. There are 19,493 property owners and water customers subject to the rate change, meaning that 9,747 protests are needed to create a majority. City Clerk, do you have a number to report to us?

Beth Minor, City Clerk: We had 12 protests.

Mayor Holman: The total number received is not higher than 50 percent. Since there's no majority protest on water rates, the motion to adopt water rate changes shall be made as part of the ordinance adopting the budget for Fiscal Year 2016. I'd like to ask for a Council motion.

Vice Mayor Schmid: So moved.

Mayor Holman: Do you want to state the motion please?

Vice Mayor Schmid: To approve Staff recommendations to adopt the water

rates.

Mayor Holman: Looking for a second please.

Council Member Wolbach: Second.

Mayor Holman: Council Member Wolbach seconds.

MOTION: Vice Mayor Schmid moved, seconded by Council Member Wolbach to approve Staff recommendation to adopt Water rates.

Vice Mayor Schmid: We have the 8 percent increase. It is built into our longer term needs for a major redoing of the safety of the Hetch Hetchy water system. It is the first of several that will be coming. On top of that, we are likely to see increases for drought measures. As the speaker noted, there is likely to be a lot of call for residents to respond to our current situation in California. This is an indication of change, but an important and significant one.

Mayor Holman: We shall vote on the board to adopt the recommended water rates. That motion passes unanimously with everyone participating.

MOTION PASSED: 9-0

13. Discussion and Direction to Staff Regarding Establishment of an Office/R&D Annual Growth Limit Applicable to Downtown, the California Avenue Area, and the El Camino Corridor on an Interim Basis (Continued From June 1, 2015).

Mayor Holman: At this time, we do have one recusal.

Council Member DuBois: Again, my wife works for Stanford, and Stanford is a major owner of commercial property. Because we're discussing a cap that does not include the Research Park, it could provide a benefit to the Research Park. Therefore, I will be recusing myself from this item.

Hillary Gitelman, Planning and Community Environment Director: Council Members, Hillary Gitelman, the Planning Director. We're here this evening to continue a conversation that was begun at the end of March of this year. It's a conversation precipitated by the job growth and resulting impacts that we've seen in Palo Alto and the region since the recession ended. This is a

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figure showing how that job growth has accelerated in Palo Alto and in the Bay Area generally. At least some of the job growth we've seen is attributed obviously to new development. A lot of it also is people occupying existing building space at a higher intensity than they had during the recession. As the Council discussed in March, there's a concern that the new development that's happening is potentially changing the character of the City's commercial districts faster than was anticipated in the Comprehensive Plan and by the current Zoning Ordinance. As the Council's aware, the current Comprehensive Plan has a cap; that's how it deals with It has an overall City cap as well as a cap on nonresidential development in the Downtown. There was a suggestion last summer in the context of some of our Comprehensive Plan Update planning sessions that the overall cap is not as effective at managing growth as something that would pace growth or meter the pace of nonresidential development, rather than just having a cap that's potentially reached in one of the out years of On March 23rd, the Council gave us direction to develop an Interim Ordinance for two years or until the Comprehensive Plan Update is adopted, whichever is less, that would implement this kind of pacing mechanism for nonresidential development. A little background before we get deeper into this. If you've reviewed the Staff Report, you're aware of this. We've talked before that there are two possible data sets to use when you're talking about nonresidential development. The first one is the data set that derives from the Comprehensive Plan Policy L-8. That policy refers to monitored areas; it only applies to certain parts of the City. It also lumps together all forms of nonresidential use. It doesn't monitor retail and office and other nonresidential uses separately; they're all lumped together. There's another data set which we, on Staff, have come to think is a little more useful for a couple of reasons. We refer to that as the CMP or the Congestion Management Plan data. It's data we report to the VTA, which is the congestion management agency for our area. The data is more useful, we think, because it covers the entire City; it's not limited to "monitored areas." It also segregates nonresidential uses into different categories. The one constraint—I shouldn't say constraint. The two potential drawbacks of this data set are, one, it uses the fiscal year rather than the calendar year, which adds a complexity that is challenging for some of us. The other is that we only have reliable data going back to about 2001. Whereas, the Comp Plan data set, the L-8 data set, goes back to the late 1980s. Before we leave that slide, this shows the cumulative nonresidential development based on the CMP data set, and it shows it in these various areas of town that we've been talking about. The California Avenue area, the Downtown area and the El Camino Corridor area are the areas that the Council's motion in March suggested should be covered by nonresidential development cap. We've included Stanford Research Park as a separate column just for your information, and then the other areas. In red, that's the row that highlights

office/R&D which is tracked separately from other nonresidential uses. The cumulative totals are not all that useful when we're talking about the pace of development; they're just an incomplete picture. You have in your packet Attachment C which shows the development on an annual basis since 2001 using this CMP data set. We've translated it into a bar graph here. You'll see that in this period from 2001 to 2015, there were only five years that exceeded the 50,000 square foot number that the Council proposed as a limit. In other words, if a limit were adopted at 50,000 square feet a year, there would be out of every 15-year period, if this is a good model, five years in which the cap would apply and the pace of development would be slowed. Just one caveat. The Staff Report that you have before you was prepared in mid-April in response to the Council's direction in March, so the data is current as of the end of March. There have been a few projects considered by the Council since then, one in particular that's been approved since then. The numbers have changed a little bit. The Staff Report does contain a discussion of the land uses that could potentially be considered in the "office/R&D category." Those are listed on this slide and on the next slide. I should mention also that if we were to develop a pacing mechanism that talked about office/R&D, it would not necessarily include accessory office uses. When a retail store or a hotel has an office use associated with it, it would not be captured. Also, the pacing mechanism would potentially not apply to government offices, which could be considered as public uses rather than in one of these categories. Tonight we're seeing your direction to get a little deeper into this issue that was discussed in March. We have divided the discussion into four points and then next steps. We'd like the Council's input on each of one of these. The first is the boundaries that should be included in the annual limit. The Council told us Downtown, Cal. Ave. and El Camino. We have a map that's proposing to you what we think those boundaries should look like, but there's some choices there. We have a question for you on the uses that should be covered and the exemptions. Then the process and criteria that should be used, and the pipeline projects. For each of these in the Staff Report, we offer recommendations in a couple of cases that's based directly on the motion that you gave us in March. We've also offered alternatives in each case. This evening we'll make a couple of additional observations in the course of the presentation. Let's go to the question of boundaries. You have a hard copy map of this at places. Essentially what we're recommending is a boundary that's based on zoning district boundaries, rather than General Plan boundaries. If you look at that map, you'll see the colored areas that were included in the Comprehensive Plan monitored areas I referred to. The easiest way to look at one of the drawbacks to using that definition is to look in the Cal. Ave./Ventura area, where the monitored area is much smaller than the area that's actually zoned to permit office development. By using zoning rather than Comp Plan boundaries as a basis here, we're suggesting that you cast a broader net in

that area and along the El Camino Corridor. In Downtown, it's a slightly smaller net, but not smaller by all that much. We have proposed these boundaries to you. Again, there's an alternative for your consideration in the Staff Report if you'd like to get into this issue in more detail. On the question of land uses and exemptions, we're recommending that we create an annual limit that would apply to most or all of the uses that were listed in the Staff Report. We would, again, clarify that accessory office uses would not be affected, nor would government offices. We've included a recommendation in the Staff Report that we create some kind of exemption for small projects; 1,000 to 2,000 square feet just as a starting place. The reason for that is that the definition of gross square footage in the Code is one of those areas that require a pretty consistent interpretation on the part of Staff in making decisions on projects. Until that definition can be revised or we all get more familiarity with it, we thought that it was a good idea to have an exemption for small projects, so we don't fight about it. we're talking about 1,000 square feet, do we want to argue about whether it is or isn't gross square feet? The stakes get much higher when we have a pacing mechanism like is being anticipated here. The next issue is process. We have prepared a Staff recommendation that's based on the Council direction in March. This is the area of this whole idea that is the trickiest. It is challenging to come up with a process that works, that is easy to administer, and would be fair to all applicants likely to try and find their way through our process. The process we recommend is one in which people could apply just as they do now, but we would essentially have to hold applications until a certain point late in the fiscal year when we would know whether the 50,000-square foot limit was going to be exceeded. If it wasn't going to be exceeded, then the applications would be processed as normal. If it was going to be exceeded, the applications would come to Council for prioritization. We are continuing to think about this. It's clear to us as Staff that, if we decided to do a first-come first-serve thing for all applications or for smaller applications, it'd be much simpler to administer and much easier to move forward with crafting an ordinance. We'll leave that to Council. Also, we're continuing to look at models from other jurisdictions. We know that Cupertino has been pursuing something like a pacing mechanism. Recently, we've been talking to someone in San Rafael who used a mechanism like this in the past. It's no longer current, but it's something they've used, they think successfully, in the past. In terms of criteria, if we were to set up a competitive program, the Council's motion back in March provided a list of criteria that we've included in our Staff Report as a recommendation, and they're summarized again here. Maybe secondary to the process question, the question of the pipeline and how we treat pending applications is also a difficult issue. Our recommendation is to think of pipeline projects as pending discretionary applications, and then test the annual limit in the next fiscal year, which is right around the corner starting

in July, by applying the new procedure to applications that are in the pipeline but exempt out those applications that are complete as of the start of the Something that we can discuss further. We also wanted to make sure that you're aware that the idea of an annual limit may have impacts, both intended and unintended, particularly if it extends beyond the two-year period. That's something we could look at in the Comprehensive Plan Update EIR, the impacts of something that might be longer term. We think it will definitely increase uncertainty for property owners, developers and for the public if we create this system where applications can be filed at any time, but they're held in abeyance until a certain time later in the fiscal year. Also of course, there's a concern, particularly with a longer program, that you could start restricting development in some areas of the City and pushing it towards other areas that are not included in the Cap. You might have the potential of discouraging uses that might otherwise be desirable; nonprofit office space, medical offices, things like that. These are all issues that will have to be considered further as we move forward. In addition to the four issues we've outlined for your discussion this evening, we'd like to get some sense of next steps from the Council. Obviously we're trying to get enough specific direction from you that we can put pen to paper and draft an ordinance that would go to the Planning Commission and then return to you for your consideration after your break. I'll be happy to answer any questions about this. These are the four issues with the addition of the policy implications and next steps at the end, that we're hoping for your discussion and direction on tonight. We would suggest that we hear public comment and then we'd be happy to take Council questions and get your thoughts.

Mila Zelkha: Mila Zelkha, resident of Palo Alto. I'm here because there's a housing shortage. I attended the Summit on May 30th and wanted to share with you some of what I heard during the breakout session on ideas for managing growth. I sat at a table with fellow Palo Altans that I didn't know very well, and we were asked to weigh the concepts of an office cap, metering growth and offsetting growth. Although we had a variety of perspectives on the cap discussion you're having tonight, we all voiced consensus that an office cap is a blunt tool and offsets have the most We also shared a strong concern of past distortion of public benefits, a loss of trust that projects had a quality of design that would address impacts in a measureable way. There was a thoughtful conversation on what a growing, thriving economy looks like and an openness to allowing office to grow provided we could trust that, one, ground-floor retail could have protections; two, that we were adding buildings that also included housing, more housing than office; and three, that transportation demand measures were put in place. I know that Council is considering ways to protect ground-floor retail, and thank you for that. We talked about what if,

instead of waiting for developers to propose projects, we as a community start the discussion about building what we want. How can we create incentives for developers to bring projects that welcome community engagement? I think about what Mayor Holman shared at her State of the City address, zone for what we want. What if we could explore having buildings as part of a specific or area plan? Our table talked about how we thought Heritage Park is an example of good, quality design. understanding is that it was part of the plan for the South of Forest Area. A specific or area plan could help us be flexible, yet maintain good quality design on addressing impacts; impacts like traffic, housing availability, parking. I believe that projects that help address our housing shortage and deal with transportation demand are worthwhile. Projects that address impacts should be encouraged. These kinds of projects inherently call for developers to engage with the community and the City. Let's welcome property owners to work with us to draft the buildings of our future. Let's not cut off any exploration of collaboratively working together in the hope that increasing a cap will address the challenges that are already here with us. Should the Council lean towards expanding a blunt instrument like the office cap, projects that address impacts should be exempt. Again, I'm here because there's a housing shortage. I venture to say that we all want better That may mean different things to different people; however, many of us would say that a better quality design would be one that helps us address these preexisting and pressing challenges.

Eric Rosenblum: Hello, Council Members. My name is Eric Rosenblum; I live at 154 Bryant Street in Downtown North. I'm a member of the Planning and Transportation Commission, but I'm here speaking for myself as an individual. I want to address the proposed growth cap. I was never a fan of this. I feel that the measure only addresses a miniscule part of the problem. I always think you want to work on 90 percent of the problem or, in this case, 98 percent of the problems of the 2 percent annual growth. There's some large and important problems that are in front of our community and How to address our housing crisis; how to create an in front of you. effective transportation management program; how to implement the Residential Parking Program. All of you would say, "Yes, we also think these are important." This is the third hearing we've had on this issue. Things move along that you guys care about and that you bring in front of you. Everyone gets excited and action happens. My ask on the side is that I'm hoping those other things get accelerated. Having said that, clearly this is the top of your agenda, so I'll try to address this directly. Mila addressed the Palo Alto Comprehensive Plan Summit. In the words of Mayor Holman, this was our constitutional convention. I was blown away by that; that's a big deal, the constitutional convention. These are the people that are getting together to try to create our governing document. It means that

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everyone is taking these deliberations seriously. My table also did not support a growth cap. We were split between metering, but mostly in favor of offsets. There was a lot of brainstorming around the types of offsets that would be feasible. How to limit transit or offset with additional housing and mixed-use and to try to make some sort of balance versus the blunt instrument of just having a cap on offices. I wasn't sure if we were representative, but I looked at the texts that were coming and I scraped those off the website. It looks like about 70 percent favor mitigations. Most of the comments that came from each table said, "We favor mitigations." It was a pretty blunt instrument in the constitutional convention. There are three choices; you can pick one. There was mitigations; there was cap on growth; and there was metered growth. It was 70 percent of the various tables throughout the group favored mitigations, about 25 percent favored metering, and only 5 percent favored a cap. I'm hoping that if you still go forward with the cap, that you consider the following exemptions. First, if there's something to address our housing crisis, mixed-use developments should be exempted. Second, buildings that are included in a specific plan or some other future design to make a better area plan that's more balanced. I also hope you'll consider an exemption, because this measure does tie the hands of good planning and to address some of the things that are more pressing. Thank you for your attention.

Drew Dennison: Hello, Mayor Holman and Council Members. This is my first time coming to City Council. I'm a Palo Alto resident, and I've lived in Palo Alto in the Downtown area for about two years with my wife, who's with me tonight. We engaged our first time with City government by going to the Comprehensive Summit. I found it a positive experience. We sat at a table with about six people that neither my wife or I knew the other members at the table. We were focused on two main concerns with the cap issues. The first thing we worried about is people being unable to afford to live in Palo Alto. People at our table definitely wanted more affordable and mixed-use buildings, subsidized housing for low-income families, people with more diverse backgrounds than people who currently live in Palo Alto. Secondly, we thought it would be nice to have well-planned areas of Palo Alto. Parts of the City that had mixed-use buildings, potentially taller buildings with first floor retail, second floor office, maybe third and fourth floor or above could be housing for residents. I hope you consider exemptions to the office cap, specifically for areas where there's good design and we can have more community involvement, especially younger people. My wife and I were probably the youngest people at this meeting. I'd like to see more of our peers be able to comment on this. Thank you.

Bob Moss: Thank you, Mayor Holman and Council Members. I certainly agree that we need some kind of a limit on office development, because it's

creating major problems with traffic, jobs/housing imbalance, parking, and so on. Is 50,000 square feet per year the right number? I don't know. It's a reasonable number and a good one to start with. We could look at it after a few years and see if we want to change it up or down. It seems realistic. The next question is do we want to divide that 50,000 square feet up by location. One of the things that concerns me is if we don't do that, a single project could come in with, say, 45,000 or so square feet Downtown and consume all of the potential for office development Citywide. You want to consider putting a limit on each area. Just as an example, 20,000 square feet Downtown, 20,000 California Avenue, 10,000 El Camino. I'm not saying those numbers are magic, but we should have some kind of a number for each area. The criteria, this is on page 10, packet page 812. I would add a sixth one, the impact on the jobs/housing imbalance. For example, an office project which also includes housing, especially BMR housing, would get more points than something that was pure office. Then the question is what do you do with all of the developments which are coming forward which are in The pipeline project that Staff says is more than 100,000 square feet over the 50,000 square foot limit, and then they have a number of criteria for looking at what is good and what's bad about a project. That's a good start. Just as another, let's say bonus point, if a developer came in with a proposal for, let's say, 20,000 square feet of offices and, in order to improve the quality of the project, he reduced that office space by at least 10 or 20 percent, that would give him a bonus in terms of being looked at in comparison with the other projects which are in the pipeline. I would look at that sort of thing. The willingness of the developer to make adjustments based on Citywide issues is a positive thing for looking at their proposal. I'd take that into account also. Finally, the question of whether we should give somebody approval just because they're earlier in the system is a bad idea. Staff should look at a group of projects which are under proposal and rank them according to the criteria that they've got and approve the ones they rank higher, not sooner.

Pat Sausedo: Good evening, Mayor and Council. I'm Pat Sausedo, Executive Director of NAIOP Silicon Valley, the commercial real estate community in your community. We submitted a letter on April 6th, and NAIOP wants to continue to express strong concern in regards to adopting a cap on office and R&D development within the City of Palo Alto, in the Downtown, the California and the El Camino Corridor. There's no question that the complex issues of vehicular traffic, parking congestion and viability long-term of our brick and mortar retail uses are challenging in today's real world. We have seen extensive economic development throughout the community, and Palo Alto has been the core of economic development for all of Silicon Valley for a very long time. Prior to adopting growth caps, NAIOP continues to recommend a thorough analysis of the following: assessing the

impacts of a growth cap on the City's General Plan and its Housing Element, its local tax base and the potential of unintended consequences including potential CEQA consequences; conducting traffic and parking analyses to better understand the true nexus of R&D and office development in the targeted areas with the potential for focused, pointed mitigations that could be implemented in those areas to address the concerns of traffic congestion and lack of parking; and a full assessment of the City's brick and mortar retail viability. We believe that through a more studied approach the City will be able to maintain its healthy retail sales tax base, identify and implement focused remedies to manage vehicular traffic and parking congestion, and enable the City to facilitate its goal of additional residential living spaces near commercial and transit centers through mixed-use We also believe that through rigid, inflexible development opportunity. policy actions a strong anti-business message is sent to the Silicon Valley's corporate and related business communities as well as your small retail and supportive service industries. I appreciate your attention and look forward to continue to working with you on this. Thank you.

Steve Pierce: Madam Mayor, Members of the Council, I'm Steve Pierce, Downtown North resident for over three decades. I come to you this evening to explain as an applicant how this affects us. There's issues here that you should be aware of. I have a project I've been working on for several years at 380 Cambridge. It's an office and retail building. currently about 32,000 feet, built in the 1960s, very tired, very ugly. It's in the parking district, and we have two onsite parking stalls. That's what's there today. Our proposal is to refurbish these buildings as well as to add an additional 2,900 square feet and to add ten onsite parking stalls as well as 12 onsite, secured bike lockers where there are now none. The project is totally Code compliant; I'm not asking for anything extra or anything out of the norm. The effects of this building, the additional space that we're adding will probably, because of the additional parking onsite and because of the ability to now accommodate bikers, we may have a smaller demand on parking as well as probably diminishing the traffic somewhat. Like I said, I've been working on this for several years. Part of that is just because you need to coordinate with your tenants. The design phase we started early last year. In August, we went before the City informally with Staff to start that whole process. In December we submitted for preliminary ARB, which occurred in the spring. Since then we've been responding to comments. I'll be submitting the final ARB package to the City tomorrow. As I said, years in planning working with basically a host of engineers, architects and so forth. Why the hardship? The hardship is to us and to our tenants in part because we can't meet the July 1 deadline. You submit today; they get 30 days to decide if its complete or not and it could be another 30 days after that. That would throw us out of the system under the proposal. The thing

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is that the existing rules would cease. We'd go into a gray zone where we don't know what the rules are going to be and we don't know when that new ordinance might come out. We don't know whether all the money that we spent on design and whatnot and that whole package is going to be relevant under any new system. It's very difficult for our tenants. We're trying to work around them, so that it works for them. Now we're into "we think you're going to be out by then," and then "we think you're going to be out by such-and-such time." Consequently, it's very difficult for them. We've had a lot of tenants drift away for understandable reasons. We cannot lease the space because we don't know what kind of a lease we can offer. In fact, we have empty retail storefronts which are not good for the City, us or anybody else.

Rita Vrhel: Hi. I'm Rita Vrhel. Thank you for letting me speak on this. I would support the cap going into effect immediately, but maybe it can be a temporary basis for one or two years while the other issues that are being brought forward to you tonight by the other speakers are considered. would allow for the concept of metered growth and offsets to be considered further. The current projects in the pipeline should also come under the cap. A few weeks ago there was considerable discussion about fundamentalism and coming to see the Codes as something that should be enforced the way that they were written, rather than the way that they are interpreted by both the Planning and Transportation Commission and the ARB. The recent election was pretty strong in that the residents, we who are lucky enough to live here, would like slower growth, thoughtful growth and growth that is spread out throughout the City, rather than concentrated in a certain area. Putting a cap in now would allow the public as well as the City Council and different departments within the City to come up with a Comprehensive To not do anything means that we're going to continue to have unfettered growth, in some areas extremely ugly buildings. If they came before the City Council now, they would never be passed. allow the ARB and Planning Transportation Commission to see that the City Council is asking them to enforce the Building Codes as they are written, rather than they are interpreted. Also, what are we going to do about How can we continue to have all these developments when the residents are being asked to this year cut their water by 24 percent? Thank you.

Council Member Kniss: If I can start on the pipeline, which is backwards because that's toward the end of this. Planning Director Gitelman, could I ask you to look at page 922 of our packet. That has the pipeline projects. When you read it carefully, almost every one has something different about it. If I'm looking at this correctly, the first one on here comes up tonight, so that of course is in question. The second one is the one that's already done.

If I look at Numbers 3, 4 and 5 on the list, that adds up to almost 90,000 square feet. Am I correct? 28, 29, 29. It's 2747 Park, 3045 Park, 2755 El Camino. As I recall that is the PC that's at the corner of Page Mill and El Camino. Correct?

Ms. Gitelman: That's correct.

Council Member Kniss: That one has been on hold for a long period of time. Most of them at this point, if the application is incomplete, what will it take to complete Numbers 3 and 4?

Ms. Gitelman: Thank you for that question, Council Member Kniss. As I indicated earlier and as it says here at the top of the table, this data was as of the end of the first quarter, so as of March 31st. It may be that those applications are now already complete. I would have to check with the Staff involved in processing those. Typically an application is reviewed for completeness within the first 30 days. We give the applicant a laundry list of items necessary to complete the application, and then they typically work diligently to provide us with those items. It may be that those and the others that are designated as incomplete here may already be complete. I don't have the information right in front of me.

Council Member Kniss: We're sure Number 5 is incomplete, because that was a PC.

Ms. Gitelman: The PC, we don't know if it's complete. It hasn't even been reviewed for completeness, because it's been on hold.

Council Member Kniss: If it's a PC, we've got our PCs on hold. As I look at the other two though, unless those applications were incomplete as we look at this tonight, it looks as though that 119, at least 90 of that is in question. I'm hearing you say there's a possibility that in the last three months, 2 1/2 months, those have gone to completion, but we don't know that. Correct?

Ms. Gitelman: I don't know that this evening. I could certainly find out for you.

Council Member Kniss: Because we're looking at something as sensitive as the pipeline, which we've brought up a number of times before, it would seem as though, looking at this, those are the three big ones under the 119. If you were to take 90 away from that, you'd end up with a pretty different figure. Looks to me like you end up with about 30,000. I'm simply calling that out. I can certainly tell that the PC one on hold is probably not going to come back for while. As far as the rest of them, it would help if we did know whether or not those were complete.

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Ms. Gitelman: I'd be happy to find that out for you. It is a good observation that many of these projects involve a relatively small amount of net new square footage.

Council Member Kniss: Which you put in pretty clearly. I don't know what the net is for all of them, but I can see that that number listed does add up to around 90,000.

Ms. Gitelman: Yes. These numbers in the table are all the net new square footage.

Mayor Holman: Let me be clear, you can ask questions on anything right now. When we go to comments, we will do comments and motions on the items individually to have some kind of order to this. Questions on anything.

Council Member Wolbach: Procedurally, I'd prefer if we did motions following a round of comments as well. It'd be useful before we get to ...

Mayor Holman: Council Member Wolbach, do you have questions currently?

Council Member Wolbach: Procedurally, it would be useful for the discussion following questions if we had an opportunity to hear where colleagues are at before we move to motions.

Vice Mayor Schmid: Just a boundary question. The San Antonio/Charleston/Fabian/East Meadow Square area was carved out as an area plan and reached conclusion. Is that correct? What kind of growth was approved under that area plan for that area?

Ms. Gitelman: Thank you, Council Member Schmid. I think you're referring to the East Meadow Circle concept plan that was developed some time ago and reviewed by the Council and endorsed to some extent, but not actually adopted into the Comprehensive Plan yet. My understanding is that that did not dramatically change underlying zoning and uses in the area. It would continue to build out as anticipated under current zoning. I can confirm that with Staff.

Vice Mayor Schmid: You don't have a sense of what kind of square footage might be included in the build-out.

Ms. Gitelman: No, I do not have growth projections specific to that area.

Vice Mayor Schmid: One of the implications you bring up is if we focus on these three areas, the growth might shift elsewhere. I'm just wondering what kind of potential ...

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Ms. Gitelman: There is already quite a bit of built-out space in that area, so there's not a lot of capacity. One of the interesting things looking at this historic data going back to 2001 is we saw increases in office and R&D square footage in Downtown, California Avenue and Stanford Research, but we saw decreases in some of these other areas where the shift was away from office/R&D to other uses.

Vice Mayor Schmid: I'm just wondering if we might see a reverse shift both there and east of 101.

Ms. Gitelman: Good question. That could be one of the impacts we see.

Vice Mayor Schmid: Of leaving those areas out of any discussion tonight.

Council Member Scharff: I wanted to follow up on some of the specific area plans. Let's see. We have several designations. We have coordinated area plans; we have specific plans, master plans, precise plans and concept plans. Can you briefly run down the differences in these plans?

Ms. Gitelman: The term specific plan is in State law, and we don't have any specific plans. What we have is the coordinated area plan, which is our local version of a specific plan. That plan covers the SOFA area. The only plans that we've been talking about in the near term are these concept plans which are like area plans. They're almost like policy documents that are intended to be incorporated in the Comprehensive Plan. Many of us anticipate that the Comprehensive Plan Update will call for additional site-specific planning, specific plans or concept area plans, as a next step in a more specific planning process. So far, we only have the one in SOFA. We are talking about potentially another one at the Fry's site.

Council Member Scharff: If I understood that correctly, when we talk about a coordinated area plan, which is the term we use for our planning, that's what we're talking about doing at the Fry's site.

Ms. Gitelman: A specific plan, yeah.

Council Member Scharff: We mean a specific plan. That tells you exactly what you can build and what you can't. It's very precise. Whereas, a concept area plan is much more vague and much more like a Comprehensive Plan and a zoning document.

Ms. Gitelman: Much more like a Comprehensive Plan, a policy document, yes.

Council Member Scharff: When you put in the boundaries, you included the SOFA area. We have a specific plan for the SOFA area. Does that already tell you where you can build office and where you cannot build office? What I'm getting at—so I'm not opaque—is should that be included within the boundary area that we're talking about? We've done a specific plan for it, so should that be included in the cap? That's what I'm getting to. I wanted to know what we've done in terms of office and what we haven't and what's left to be built. Maybe there's nothing left to be built there.

Ms. Gitelman: Thank you, Council Member Scharff. That was a great suggestion by one of the speakers, that a concept area plan, where you basically have very site-specific development standards in plans. You've thoughtfully considered the entire area in some detail. That could be an area that could potentially be carved out, where this could not apply. That's a question I would ask the Council, if you have interest in doing that. That was an interesting idea.

Council Member Scharff: You now used the term concept area plan. Did you do that on purpose as opposed to a specific plan or did you mean ...

Ms. Gitelman: I'm sorry. Coordinated area plan. I've never come across that term before.

Council Member Scharff: I wanted to make sure I understood that. The other thing Staff talks a little bit about in here is the 1,000 to 2,000 square foot of office space shall not be included, and then looking at what gross square footage means in the Code. That's basically what you suggested. There's two thoughts. One is that you think if we update the Code on that, then we wouldn't necessarily need that. That's why you wanted to put it in the interim. I also had another issue on this. For some small project, maybe I simply don't want to include them. For 1,000 or 2,000 feet, it may or may not be worth including. For instance, if I didn't want to include it, would it then make sense to say projects that add less than 2,000 square feet, for instance, or would you still need to update that gross square footage issue? What is the issue on the gross square footage? Maybe you can be a little more precise.

Ms. Gitelman: Thank you, Council Member Scharff. The issue on gross square footage is simply that it takes some interpretation. We review projects; we talk to applicants; we get comments from the public. There's a dialog about our current definition; it could be more clear. It's something we want to do in a Code update sometime, but we haven't gotten around to it yet. I hope we will soon. That's one of the reasons that our thinking was that exempting small projects would probably be a good idea, then we

wouldn't have to fight about it quite so much. Setting that issue aside, the idea of exempting small projects might be a good one just as a policy matter. One of the concerns we raise in the Staff Report, and you heard it from a couple of the speakers, is the concern that putting a big program like this in place is you're going to scare away a bunch of people that might want to do a small fix to an existing building, but they can't add on because they're getting caught in this year-long process with uncertain results at the end of it. Again, that's a question we'd be interested in the Council's thoughts on that.

Council Member Scharff: The other issue I didn't see raised in the Staff Report is if the 50,000 square feet is not used in a particular year, should it carry forward? Did I miss that or is that not addressed?

Ms. Gitelman: We did address that back in the March Staff Report. Our observation at that time is that the 50,000 square foot or whatever the limit is, it wouldn't be effective at metering the pace of growth if it would roll forward. Then the allocation would accrue. This is what's happened in San Francisco where during the recession they didn't see a lot of development. Now they're seeing a whole ton, and they have this enormous backlog of allocations to give. There's no metering mechanism in place.

Council Member Scharff: That's why Staff didn't put that in there. Without that ability, we would then say no office building in those areas could ever be larger than 50, 000 square feet. Is that correct?

Ms. Gitelman: That's correct. Without some kind of special Council action.

Council Member Scharff: Are some of these sites zoned for more than 50,000 square feet of office that are included within the cap areas?

Ms. Gitelman: We would have to look at that. The one large site that we have in this area, the Fry's site, is currently zoned residential. We're going to talk about that at your meeting next week. We'd have to analyze that.

Council Member Scharff: I'm almost done. On the criteria, Staff seems to be struggling—maybe it's not the criteria. It's the metering, the process. That was early on in the Staff Report. You have the recommendation on page 9 which is establish a procedure by which the applications are accepted and processed as they are currently, except nothing would be approved before March 31st. This is based on fiscal years; is that how that works? Is this based on you'd have to get your stuff in January or when does this start?

Ms. Gitelman: This would be a fiscal year, so it would start July 1. The idea is anyone who applies or is pending July 1, basically the application would be processed but it couldn't be approved until after March 31st. At that time we would know whether there were more than 50,000 square feet in the pipeline or not.

Council Member Scharff: Any time you got your thing in after July 1, it would be decided the following March of whether or not you're within the cap. After that, if you got it in March 10th, if the cap had already been given away, then it would go to the next March 1.

Ms. Gitelman: It depends on whether that application would be complete and could be acted upon and what else is going on. The idea is that people who submit early in the year are waiting for a long time to get their decision from the City. The people who submit closer to the March 31st date are potentially only waiting a few days if their application's ready to be acted upon. This is one of the challenges. There's a lot of uncertainty. There's going to be winners and losers. People who have thought ahead, like the applicants who have gone through preliminary review, have been doing a design and now they're ready to submit, they're potentially waiting for a long time to get the City's up or down vote.

Council Member Scharff: One other question I had. Staff has a bunch of different uses. The ones that stand out to me are medical uses. Some speaker brought up nonprofit spaces or maybe Staff brought it up in the thing. That was the first time I thought about nonprofit spaces. Is that workable? I understand if you develop medical spaces, you could say that's not included in the cap. That makes perfect sense to me. I'm wondering from a Staff perspective how we would enforce and make work if you said it has to be a nonprofit. Is that something you feel comfortable we could enforce and do? If you built nonprofit space, that wouldn't be included in the cap.

Ms. Gitelman: In the Staff Report, we do raise some concerns with that line of thinking. It's really difficult to legislate based on the business entity rather than land use. Zoning is about land use. That would be quite a challenge. How would you prevent, for example, an office space that's built for a nonprofit from converting to another office use that's not a nonprofit?

Council Member Scharff: That was my question. Could Staff do this or not? That is really the question.

Ms. Gitelman: It would be potentially very challenging. We could obviously analyze it in some specific detail, if the Council wanted to go in that direction. Our alarm bells are going off that it would be really difficult.

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Council Member Filseth: I had a couple of questions for legal. Can you folks quickly summarize on two areas? One is disposition of stuff in the pipeline. The other is I wanted to ask about Cara's memo about a legal safety valve, if you'll elaborate on that a little bit.

Cara Silver, Senior Assistant City Attorney: Cara Silver, Senior Assistant City Attorney. With respect to the pipeline projects, the legal issue associated with these is that property owners do not acquire a vested right to develop a project technically until they have received a building permit, they've received all of their entitlements and they have started acting on their building permit. That means that even the pipeline projects that are listed in your Staff Report that have not received planning entitlements, while they're considered pipeline projects, they don't legally have a right to develop the project because they haven't received that building permit and they haven't acted on it. That being said, historically the Council has recognized that there is a policy towards protecting property rights in general. Historically the Council has struck that balance at the point of a property owner who has gone through the process and received the planning entitlements, if a conditional use permit is required, if an ARB permit is required, that type of thing. If all those entitlements have been received, previous Councils have said that that is a place where it's not fair to say, "We're going to stop you here and not let you proceed," if there's been a change in an ordinance. Again, that is a policy choice. Those are the two different perspectives that we wanted to highlight. With respect to safety valve, we would recommend that with any ordinance like this that could potentially affect property rights, that it is good to have what we call a safety valve exception process. That would allow property owners that think this would have a particular financial impact such that it would rise to the level of a taking can assert that right in front of the Council and ask for a You included something like that in your retail preservation ordinance. We think that is a best practice here.

Council Member Berman: I have a couple of questions predominantly around El Camino. Apologies for not submitting these in writing ahead of time. On packet page 921, we have the tables that show the different types of development over the past 15 years in the three areas that we're looking at, Cal. Ave., Downtown, El Camino. In El Camino for office and R&D, I noticed there's only been one year where there's been a lot of development on El Camino, and that was 2010. Was that one project or does anybody remember what led to that 34,000 square feet? I understand if you don't. That's why I should have emailed you ahead of time.

Ms. Gitelman: I'm sorry. I would have to look that up.

Council Member Berman: I noticed last year or the year before, at some point since I've been on Council, we approved the We Fix Macs site. That had some amount of office and R&D; it was mostly residential and a similar amount of retail and then office/R&D. How come that's not indicated here?

Ms. Gitelman: I would have to check. My guess is that there was some existing office use onsite, so it netted out. I can look at that and get back to you.

Mayor Holman: I have just a few questions. Is a project application complete if the environmental analysis is outstanding?

Ms. Gitelman: I'm remembering back to how we characterized this issue in the Staff Report. I think we said that an application could be complete, and that's when the environmental analysis would begin. There's this other term we use that talks about readiness. That would mean that the environmental review document has been prepared and is ready for action. A decision-making or recommending body could take action on the project. We used both of those terms to characterize the pipeline.

Mayor Holman: I didn't catch that. An application is complete prior to environmental analysis being complete.

Ms. Gitelman: Correct.

Ms. Silver: If I could weigh in on that. Under the Permit Streamlining Act, which is a concern in growth control metering, the Permit Streamlining Act looks at two different phases. One is the project application completeness, and that does not include the environmental. The second phase of the Permit Streamlining Act is that once the environmental review is completed, then the Permit Streamlining Act has a second set of time periods that the Council has to act on.

Mayor Holman: The pipeline projects, the list on packet page 922. Akin to Council Member Kniss' questions, it would be important to know what the incremental increase is on these projects. Also, there was a speaker tonight who mentioned a project that isn't on this list, on Cambridge. I'm wondering if there are other projects that ...

Ms. Gitelman: I'd be happy to clarify this. All of the projects listed on this table, the numbers shown are the net new square footage. These are net numbers.

Mayor Holman: I see that now. I'm sorry.

Ms. Gitelman: We're not showing what is proposed and what is existing; we're just showing the net. This is an important point about the Cambridge project that was referred to. We have not included on this table preliminary ARB applications that may have come in the last year, two years, four years. As the Council's aware, those preliminary reviews don't get an applicant any entitlement. What they get are the input and direction and feedback from the ARB. These are projects for which a formal ARB application or another discretionary application has been filed that will potentially yield an entitlement, but it specifically does not include preliminary ARBs.

Mayor Holman: Sorry I didn't catch that net increase. The map that's the expanded map. Thank you for providing this larger map; it's much easier to deal with and comprehend. The areas along El Camino that are on this map but outside the red dashed area, are there planning applications in that area currently?

Ms. Gitelman: All of the planning applications are listed on the table that we just reviewed. There wouldn't be any outside of the ones that you see—there weren't effective March 31st—other than the ones you see on this Attachment D table.

Mayor Holman: The question that was asked about and the comment that was made in the Staff Report about the vagaries around Staff interpretation of current Code. Is that indicating that those Code cleanups would be a part of what comes back to us after this has gone to Planning Commission and then when it ultimately comes back to Council? Is that an implication of that or not? I think you're accruing a list of those.

Ms. Gitelman: That's right. We're working on a list of Code cleanups. I can't tell you if that one will make it into the top of the pile to come to Council in short order or if that'll be lower down on the list. It's definitely making its way up the list.

Mayor Holman: The Staff Report mentions complete applications by July 1. Why that date as opposed to tonight? What's magical about July 1?

Ms. Gitelman: It's the beginning of the fiscal year. If we were going to start a metering program and test it out in Fiscal Year 2016, it would make sense in our view to commence on the first day of the fiscal year.

Mayor Holman: Council Members, it probably makes sense to do the order that Staff has indicated. If there's reason to take them up in a different order, then that's fine too. Comments and potential motions, let's start with boundaries.

Council Member Wolbach: I would suggest that perhaps before we go into breaking those down, colleagues might have overarching comments (crosstalk) broader sense.

Mayor Holman: I'd like to do these by area, to try to get us through these, try to work through these.

Council Member Scharff: I will ask some questions about the boundaries. When I vote for a motion, I'm only going to vote for a motion that includes everything. I don't have any interest in voting on the boundaries, for the land use, for the process, applicability. I need to look at the whole motion. There's things I might trade off in my mind. I'm happy to do a discussion this way, but when I vote I'm only going to vote yes if we have it altogether.

Mayor Holman: We can do that. We could have a motion that's a tentative motion, if you want to consider them altogether. It's important to us to get some motions out there and under these discrete topics. Do you have comments on the boundaries?

Council Member Scharff: I do have some comments on the boundaries. The boundaries that Staff has drawn make sense in terms of using a zoning map. I would tentatively support that. We do need to think a little bit about El Camino. I'm not sure where I break down on that. It is interesting to include El Camino on this. It is different than Downtown and California Avenue. I have some thoughts about that. I definitely agree with the speaker who said that—this may be under a different criteria. It's not quite clear to me how we draw these. The notion that within a boundary, that if it's a specific plan, everything that was said but a concept plan should be excluded. This would be a good way to get people to focus on doing the plans and getting community buy-in. That would be a big plus if that wasn't included and a big incentive for people to do that and go do community buy-in. The SOFA plan worked well. The more we move to having community buy-in and doing precise plans or coordinated area plans, the better off we'll be. I for one would like to see that happen.

Council Member Berman: I've got questions about El Camino. I'm not sure why we're including it in this. If you look at development that occurred on El Camino in the past 15 years, there's been negative development in retail, negative in other and about 3,000 square feet a year on office and R&D. About 70 percent of that was in one year. We've all said countless times, El Camino is definitely not a bright spot in terms of use and the buildings that exist there and the look and the feel. I'm not being very eloquent this evening. We've identified that it's pretty ripe for redevelopment and ripe for improvement. I worry that including El Camino in this is going to discourage

that improvement that we all we want to see on El Camino. Dramatic office space development hasn't been a problem there. I don't know that we gain a lot by including it. If we end up passing a cap, I don't know that we gain a lot by having it in that cap. I support Staff's suggestion as to what the boundaries generally are. I'd be looking to colleagues to convince me that El Camino belongs there. I'm not entirely sure based on what's happened in the past 15 years and the current state of it that it does.

Council Member Wolbach: Picking up on what Council Member Berman was saying. What we're looking at here is something that obviously I wasn't tremendously supportive of as far as carving up different parts of the City. I figured originally that it would make sense to have this apply, if we're going to do this, to the whole City. I am comfortable with focusing on those areas that have been highlighted by Staff. I don't know if I have a very convincing argument for you, but the Staff recommendation for the boundaries is pretty Following on what Council Member Scharff was saying, this does overlap with the secondary which is the issue of exemptions. Precise plans, coordinated area plans, specific plans, if we decide to use them, or master plans. I've also seen the term master plan used in reference to the Fry's site; that's why I mention it. Those should not be included with (inaudible). Whether we put that under boundaries or under exemptions, in the end I'll be looking for a motion that exempts those. It's important that we do get a handle on the quality of design of projects in Palo Alto, and that the community be put in the driver's seat. Those planning processes enable the community, enable the City as a whole, the Council, the ARB, the Staff, the residents to be in the driver's seat and to say to a developer, "We don't like what you're doing here, and we're not going to be okay with it." In order to move future changes in our City in that direction, those should be outside of an annual limit. In general, the boundaries drawn by Staff are good.

Council Member Filseth: On the topic of coordinated area plans, those are great. The fact is we don't have those today. One way to look at this is what are we doing in the meantime while we develop those things. At the moment, the status quo is a free-for-all. If the outcome of this process is in two years we've got coordinated area plans everywhere and we don't need this anymore, that would be a wonderful outcome. I have a couple of observations, unfortunately not any conclusions on this. If you look at why we're doing this and what are the negative impacts of office and R&D development on the community, obviously there's some on the developers, but there's some on the residents too. It seems to me they fall into a couple of buckets. One is the driving out of retail along with traffic and parking woes. The other is it tends to drive up the jobs/housing imbalance, which tends to make housing scarcer and less affordable because demand increases. The first bucket, traffic, parking, impact on retail is very location

specific. Whereas, the second one, impact on the jobs/housing imbalance, it doesn't matter where it is in town as long as it's within, for example, the Palo Alto School District and the other things that impact housing demand. This is a surprise. I looked at the pipeline. The pipeline's got 150,000 square feet of office space in it, of which 120,000 square feet is in the Cal. Ave. area. I didn't expect that. I would have thought it was coming in Downtown/University Avenue. 120,000 square feet of office development, which is 2 1/2 times the annual meter we're talking about, could be a The El Camino/Page Mill intersection is generally significant impact. regarded as the worst intersection in town. As we talk about El Camino as boundaries, it makes quite a bit of difference whether you're talking about El Camino next to Page Mill Road or El Camino in between Arastradero and San Antonio. Maybe we should look at those differently. That's one observation. The other observation is if we decide that we would prefer that there was office development in south El Camino, maybe there's a relationship between that and the annual meter we set. If we say we're going to exclude such-and-such an area, it may be that 50,000 square feet isn't the right number anymore. Maybe it is, maybe it isn't. That's my two observations on the boundaries. I hope other people can add on that.

Council Member Burt: I concur with Council Member Filseth on the coordinated area plan issue. While that is a valid consideration when we look at our long-term ordinance, after we've adopted the Comp Plan and we have these coordinated area plans. The fact is right now we have one, which is the SOFA II area, that would apply here. That's premature. We don't need to throw that in at this time. I wouldn't want to see 40,000 square feet in a single year get thrown into the SOFA development, for instance. I don't want to create that as the Downtown loophole, which then squeezes any Downtown office to be motivated to be put into that area. I'll also comment that I also was somewhat surprised by the number of square feet in the Cal. Ave. area. That, once again, speaks to something that I've brought up for a number of years. The base FAR permitted in Cal. Ave. is twice—is it twice what Downtown is? Downtown is a 1.0, and it's a 2.0 in Cal. Ave. What they can build according to current zoning without having to purchase Transfer of Development Rights and potentially with different parking issues is different in Cal. Ave. That's part of what's happening. The other part is that there's available land in Cal. Ave., and it's become more valuable. That's driving development there.

Mayor Holman: I have just a quick couple of comments, and then I'm hoping we can get to a motion on this quickly. There's one other thing that we're not talking about in terms of including El Camino. I support including El Camino. Here's why. I would not want to see it be where other development goes if we try to exclude it. The other is as part of our Comp

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Plan discussion, we're also going to be addressing the considerations that we have that was in the Colleague's Memo some two years ago now, having to do with El Camino design guidelines and the Grand Boulevard design. It seems like we could pull all those together at once, rather than again letting development happen on El Camino and then not having those things in place that would guide what that development might look like. Do we have a motion?

Council Member Scharff: The way I understood you to say we'd do this is we'll make a tentative motion. Is that what you were thinking of on each of these individual things or are we just going to continue on through each individual thing?

Mayor Holman: You can try a motion and we can also do it if you would like as a tentative motion and then we can go back and reaffirm them as a lump or individually later. Let's get something on the floor.

Council Member Burt: But not vote on them (inaudible).

Mayor Holman: We could vote on them, but vote on them as tentatives.

Council Member Scharff: We can vote on them as tentatives if that's what you want to do. We'll go through it and have tentative motions on each of these subjects, and then we'll put them altogether and see if it gets five votes. Is that plan?

Mayor Holman: Sure, yeah.

Council Member Scharff: I want to make sure we're clear on the (crosstalk). I'll make a motion, but I want to speak. This is a two-year motion that says until the Comprehensive Plan is adopted or for the next two years. I'm not sure we'll adopt the Comprehensive Plan in two years. We are talking about going forward and doing the Fry's specific plan. What we put in this motion could very well form the basis for a continuing motion. I'm not sure that not including specific area plans and all of that is not the right way to go. These things take a long time if we're going to do any new ones. We should include that. I'm a little concerned of Council Member Burt's concern that, yes, we could have a lot of office space suddenly developed in SOFA. The question I had for Director Gitelman is, is that a concern that we should be concerned about. When we did the SOFA specific plan, did we include a lot of office that's still to be developed there or is this not likely to be a concern or do we have no idea at this point what that's likely to be?

Ms. Gitelman: I would have to research for you how much office potential is left in SOFA II.

Council Member Scharff: I'll make a motion that we use "the precise boundaries of those areas shall be where the office/R&D are permitted generally within the boundaries shown in"—is it Figure 1 in Attachment B to the Staff recommendation? The development cap shall not apply to any area in which the City has adopted at time of development a coordinated area plan, specific plan, master plan or precise plan.

Council Member Wolbach: Second. Would you be open to a friendly amendment when it comes to that?

Council Member Scharff: Yeah.

MOTION: Council Member Scharff moved, seconded by Council Member Wolbach to use the precise boundaries as outlined in the Potential Office/R&D Cap Boundaries, and the Development Cap will not apply to any area in which the City has adopted at time of development a Coordinated Area Plan, Specific Plan, Master Plan or Precise Plan.

Council Member Scharff: I might be open to the issue of Staff coming back to us on the SOFA issue and looking at that and giving us further detail on that issue at some point. When the ordinance comes back to be drafted, I'd like to have the facts on that. As we move forward, especially if we're going to look at doing these precise plans or not, this may not make a huge difference. If people are working towards and encouraged to do that, when it comes time if we're going to put in a permanent ordinance, that could be an incentive to do it. We need to start building the basis for what could be a permanent ordinance in this respect. It's important to get those ideas into the concept, so that Staff's thinking about them and that the people that own property are thinking about them. The cap is a blunt instrument. It would be much better to have these specific plans about what we really want in the City and have a pubic engagement process. These specific plans take—I don't know. SOFA took forever. Council Member Burt was on that They take two to three years to start with. If someone goes through a two to three-year process on this, you should be out of the cap.

Council Member Wolbach: I'd propose a slight tweak to this that will address what you're trying to get at, Council Member Scharff, while also addressing Council Member Burt's concern. That would be to change it to "will not apply to office space approved as part of a concept area plan, specific plan, precise plan or master plan." That way we're saying that we're not exempting anything within the geographic boundaries of one of those plans. We're saying that specifically we could as a community decide to exempt office space approved as part of one of those plans. Does that make sense?

Council Member Scharff: I'll defer to the Director who looked like she had something to say on this.

Ms. Gitelman: That makes sense. In fact, I think that was Council Member Scharff's intent. I'm reacting to the "concept area plan." I think it's coordinated area plan.

Council Member Scharff: It is coordinated.

Council Member Wolbach: Correct, correct, Concept area plans are too broad and should not be included in this. That would defeat the purpose of this whole project.

Ms. Gitelman: Even master plan is a broad term. I think your intention is coordinated area plans, specific plans. Mountain View calls them precise plans.

Council Member Wolbach: We can change master plans to precise plans. Let's just go with coordinated area plan or specific plan. Coordinated area plan is our nomenclature, as Council Member Burt pointed out.

Council Member Scharff: I'm good with it.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to replace in the Motion, "Specific Plan, Master Plan or Precise Plan" with "or Specific Plan."

Council Member Wolbach: We are looking at something that's either two years or until adoption of the Comprehensive plan, whichever is shorter. As Council Member Scharff pointed out and others have pointed out previously, this is an opportunity to pilot ideas. This is an opportunity to start thinking about things that we want to introduce for the long term, either in an ordinance or in our Comprehensive Plan. This is a good opportunity to start funneling development towards community-led projects rather than developer-led projects. That's very important. When it comes to the quality of design and the community being in charge, hopefully we'll do more coordinated area plans in Palo Alto. Those put us in charge. This tweak we just made, again, the idea is that the community hasn't tied its hands. We could as a community say, "This year we're okay with going beyond the cap, because we've come together as a community around it." This is different from the PC process, I'd like to point out, because a lot of people might have that concern. This is different from the PC process. Here we're talking about a community-led project, not a developer coming to the City saying, "I want to break your cap, and I'll give you something that you'll like in exchange for it."

Council Member Burt: This amendment does not address my concern. I don't want to see at this point in time, before we've had the ability to look at it in the context of these coordinated area plans, what would be the impact of such a carve out? This could be a major change from the intent of this growth cap. We don't know what level of growth cap we might want at the completion of these two years. We may look at one, two, more coordinated area plans either enacted or on the horizon by then. We might say they've captured X amount of the area that we thought we were going to include in this, so we'd adjust the total accordingly. We don't know that right now. I'm not prepared to do that. I'm not going to support this motion with the inclusion of the carve out at this time.

Council Member Filseth: I have the same concern as Council Member Burt. At the very minimum, it seems like if we do a carve-out like this, then one of the unintended consequences is we essentially raised the cap. If the cap is 50,000 square feet a year and we have a coordinated area plan for somewhere that allows 30,000 square feet a year, then we're now at an 80,000 square feet a year cap. At the very minimum, if in fact we do a carve-out as part of a coordinated area plan, then we need to go back and revise the net cap to compensate for the difference there. It may be that Council Member Burt is correct, and we shouldn't do this.

Vice Mayor Schmid: My concern is the opposite one. We are not saying anything about areas outside of the three identified areas. If you look at the total building, 60 percent of the building has been outside of these three areas over the last 15 years. Maybe that is in areas where the coordinated plans or specific plans would be helpful. We are voting an interim measure which only affects three areas, less than half the area that is built on in Palo Alto, and not dealing with east of 101 with the Stanford Research Park, with the East Meadow area. I see this motion as a part of a limited motion rather than a Comprehensive Plan statement.

Mayor Holman: I'll chime in with other colleagues. I would not want to see a carve-out of the SOFA area. It's a sensitive area and it does have a coordinated area plan in place. Because it is a small area near Downtown and a somewhat constrained area, we could be surprised at what might happen there in terms of redevelopment. It's smart to keep that as a part of the larger area.

Council Member Filseth: Does the SOFA plan contain a target for office/R&D space development?

Ms. Gitelman: I'd need more research to determine the zoned capacity there that is unbuilt, but it does fall within the Downtown cap, or most of

SOFA II is within the area that we monitor as part of the Downtown cap. That issue is at play here as well.

Mayor Holman: Part of SOFA II has a zoning called RT-50 which means 50-foot height. It speaks to larger development.

Council Member Scharff: I might be willing to exclude SOFA from this or pending if Staff comes back to us when we have the ordinance before us with all of the information regarding SOFA. It's not in here, but we can decide then whether or not we want to put it in, given the information we get from Staff.

Mayor Holman: Do you want to amend your motion?

Council Member Scharff: Yes, I would amend the motion that this would not currently apply to the SOFA II coordinated area plan and that, when Staff comes back with an ordinance on a Downtown cap, Staff would include the information regarding the effects of excluding the SOFA area plan.

Mayor Holman: Council Member Wolbach, do you accept that?

Council Member Wolbach: I do.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion, "with the exception of the South of Forest Area Coordinated Area Plan, Phase Two (SOFAII) and Staff will return with information pertaining to the impacts of excluding SOFAII from the Development Cap."

Council Member Burt: Speaking to the impact of the change. Retaining reference to other coordinated area plans or specific plans is problematic. For example, if we went forward with the Fry's, if long-term we said that the Fry's was going to allow a certain amount of office, according to this we'd now be predetermining that that would be able to be added on top of the cap. I don't think we've had that policy discussion. We unanimously supported the general guidelines of what we're looking at tonight. Within those guidelines, there are open issues that are legitimate. Things that are chipping away at what we agreed on, that I am not in support of doing tonight. I don't want this process to be a chipping away process at what we already unanimously agreed on a number of weeks ago.

Mayor Holman: I would like for us to vote. Council Member Scharff, would you consider an amendment to include what you have here for South of Forest and take out the specific plan reference?

Council Member Scharff: No.

Mayor Holman: I'll offer that as a separate amendment.

Council Member Burt: I'll second.

AMENDMENT: Mayor Holman moved, seconded by Council Member Burt to remove from the Motion "Specific Plan."

Mayor Holman: It's specifically what Council Member Burt was referring to. These are all tentative votes. This means that this cap would not apply at this point in time to any of the specific plans. The South of Forest area plan would come back with some information from the Director, when it comes, about what that potentiality is.

Council Member Filseth: Does the cap cover the SOFA area?

Council Member Scharff: It does according to my motion.

Mayor Holman: It does or doesn't. It depends on what the information is that comes back from Staff as part of the main motion. I want to take out the specific wording "specific plan" after SOFA II. It is in the main motion. It's the South of Forest Area II, or SOFA II. That's an area plan, not a specific plan. Your intention is to include any other specific plans as part of the main motion. Is that correct, Council Member Scharff?

Council Member Scharff: It's a coordinated area plan or a specific plan. Yes.

Mayor Holman: Let me get clear on this. Your only intention is to determine whether you're going to include SOFA or not. Is that the only thing?

Council Member Scharff: No, I am not including SOFA. I'm asking for more information on SOFA.

Mayor Holman: Your intention is not to include any other specific or area plan should we develop one along the way and later.

Council Member Scharff: That's correct.

Mayor Holman: Then we don't need the amendment.

Council Member Scharff: No. no.

Mayor Holman: It doesn't seem to me that we do. Your ...

Council Member Scharff: It's the opposite of what you believe you just said.

Mayor Holman: Your main motion then says—okay, all right. I do still need this. I will stand by this, yes. Sorry.

Council Member Burt: You said remove "or specific plan," and you omitted removing "or coordinated area plan." If Fry's is a coordinated area plan, under your amendment it would still be allowed to carve out immediately. Both terms should be used.

Mayor Holman: That's fine with me.

AMENDMENT RESTATED to remove from the Motion, "Coordinated Area Plan or Specific Plan."

Council Member Wolbach: If you end up removing coordinated area plan or specific plan, then all the stuff about SOFA doesn't matter anyway. That was an exemption to the exemption. If you're removing the primary exemption, then you don't need the exemption to the exemption. One thing I wanted to briefly—we might come back to this; although, I try to avoid beating a dead horse when I can. This is one of the reasons I was hoping that we could talk about things in general, and I guess we will before we make a final motion because this is all tentative. The issue of what kind of impacts a specific plan or coordinated area plan might result in is something I was planning to discuss in our next section. We'll get to that, and we might come back to this. I want to make sure it's not lost on colleagues. The idea is to encourage developers to start the City process of planning with community-centric vision rather than developer-centric vision.

Mayor Holman: Can we vote on the amendment please?

Vice Mayor Schmid: Could I ask what you've done here? The main motion reads with the exception. If you take out coordinated area plan or specific plan, there's no subject matter.

Mayor Holman: Correct.

Vice Mayor Schmid: What's with the exception of the South ...

Mayor Holman: The subject is that we'd use the precise boundaries as outlined for the potential office and R&D boundaries and the development cap that's proposed by Staff. Council Member Scharff, your motion should have "as proposed by Staff."

Council Member Scharff: That's fine. We can add "as proposed by Staff."

Mayor Holman: This amendment would take out everything after "Staff." Everything that's highlighted. Vote on the board please.

Council Member Scharff: On the amendment?

Mayor Holman: On the amendment. That amendment fails on a 4-4 vote, Council Member DuBois not participating.

AMENDMENT AS AMENDED FAILED: 4-4 Burt, Filseth, Holman, Schmid yes, DuBois not participating

Mayor Holman: We return to the main motion. Vote on the board please.

Vice Mayor Schmid: Can you read this?

Mayor Holman: This is to use the precise boundaries as outlined by the Staff, and the development cap will not apply to office space approved as part of the coordinated area plan or specific plan with the exception of South of Forest Area plan and Staff will return with information pertaining to the impacts of excluding SOFA II. That also fails on a 4-4.

MOTION AS AMENDED FAILED: 4-4 Berman, Kniss, Scharff, Wolbach yes, DuBois not participating

Mayor Holman: Our next topic is ...

Council Member Burt: Where are we?

Mayor Holman: I'm looking for the next one in the Staff report. That is ...

Council Member Scharff: Land uses.

Council Member Burt: Does this mean we are going to have no boundaries?

Mayor Holman: We will have to come back to that after we have the rest of the discussion. Land uses subject to an annual limit and exemptions. I hope we can move more quickly through this.

Council Member Wolbach: There have been a couple of things stated before that come to play in this portion of the discussion. For me, this is the crux of the discussion tonight. It's very important. As mentioned before by a couple of others, the key negative impacts of a thriving economy are twofold. Too many cars for our transportation infrastructure, traffic and parking impacts, and too many jobs for our housing supply, and our jobs/housing imbalance moving from a pretty significant imbalance that we've had for decades into something that's even worse, which leads to

nation-leading rental costs, which impacts nearly half of our residents who rent their homes. It's too many cars for our transportation infrastructure and too many jobs for our housing supply. We should be realistic. In the past several years, office development alone has not been rapid enough to explain all the impacts we've seen. Job growth is driven by a number of factors, not just office development. That said, this is a piece of the puzzle. Future office growth does have a significant potential to change our community's physical characteristics as well as its impacts to reduce quality of life for Palo Altans. It's important that we put Palo Altans in the driver's seat, that we get ahead of development pressures, that we get a handle on the quality of design and we focus on key impacts. It's important that we exempt—this is important, but it's going to be tricky to work out the details. It's important that we exempt projects that address the two key impacts facing our community. A self-mitigating project. A project that provides robust ...

Mayor Holman: Council Member Wolbach, we're talking about uses.

Council Member Wolbach: And exemptions. I'm talking about exemptions. It's important that exempt from an annual office cap be self-mitigating Those would be projects which provide robust Transportation Demand Management, that deal with the potential for too many cars coming into Palo Alto. Secondly, in order to qualify as a self-mitigating project, you'd also have to supply adequate housing for the jobs that you add to Palo Alto. I'm talking about setting a really high bar. I don't think we should be afraid of having high standards. If a developer says, "We want to add a building that adds zero new net car trips to Palo Alto, and adds zero new net jobs to Palo Alto," it would be addressing the two key impacts that are frustrating Palo Altans and hurting quality of life in Palo Alto. Those being housing costs and supply and, on the other hand, traffic and parking. These are the two main impacts that Council Member Filseth mentioned earlier. These are the two key things that were highlighted during the election last year. These are the two key things that were highlighted by everybody at the Comp Plan Summit that we had recently. I'm okay with moving forward with an annual office cap, but self-mitigating projects should be exempted.

Council Member Scharff: We should exempt medical office space. We need more medical office space. Dentists, doctors, chiropractors, health professionals, that was something that was identified by Staff. Those are services to the community, and I don't want to have to drive outside of our community for those kinds of services. I don't foresee that there'll be large medical office components created, and I'm probably willing to put a cap on it, if anyone wanted to suggest one. I would like to see that. I would also like to see us exempt the small projects, 2,000 square feet of office space

that Staff suggested. One of the things I was thinking we might do is try and get some agreement on some things. I'm wondering if I make a motion on one of these items, maybe that'll build some consensus. Projects that add less 2,000 square feet of office space shall not be included.

Council Member Kniss: Second.

MOTION: Council Member Scharff moved, seconded by Council Member Kniss that projects generating less than 2,000 square feet of net new office space will be exempt from the Development Cap.

Council Member Scharff: Staff's right. We shouldn't be arguing over if it's 1,000 feet or 1,500 feet. There should be a small project exemption. If you add 2,000 square feet or you build a small office building of 2,000 square feet, that shouldn't get you involved in our office cap. I'm going to suggest that we go with the 2,000.

Council Member Kniss: You did a fine job.

Mayor Holman: Can we vote on the board? Thank you, Council Member Scharff. That passes on a unanimous vote with Council Member DuBois not participating.

MOTION PASSED: 8-0 DuBois not participating

Council Member Kniss: Since Greg attacked the under 2,000 square feet—I'm on page 11 of the Staff recommendation. This involves applying the annual limit to research and development, administrative office services, medical offices which is what a couple of you have spoken to already, and a professional office. I'm going to presume again that is the definition that you've given us in the past. Director Gitelman, am I correct?

Ms. Gitelman: The definitions are in the Staff Report for research and development, administrative office, general business office, medical office and professional office.

Council Member Kniss: I'm reading just what you wrote in there. A professional office is going to be presumably—I don't know precisely what we're going to call a professional other than medical, but perhaps we're talking of some kind of other services, scholastic services, something like that, a place where tutoring would be done. Is that the kind of thing we're meaning?

Ms. Gitelman: Professional office is defined as a use providing professional or consulting services in the fields of law, architecture and architectural design, engineering, accounting and similar professions.

Council Member Kniss: That was just what I was looking for. That's my motion.

Mayor Holman: Council Member Kniss, a little clarification just for a moment. I think you said Staff Report page 11.

Council Member Kniss: No, I'm on this ...

Mayor Holman: You're on Staff page 5 ...

Council Member Kniss: I'm on tonight's ...

Mayor Holman: You're on the slides.

Council Member Kniss: I'm on tonight's ...

Council Member Wolbach: It's also Staff page 5.

Council Member Scharff: Packet page what?

Council Member Wolbach: (crosstalk) 07.

Council Member Kniss: I've moved the Staff recommendation on the annual limit.

Mayor Holman: You're saying also, which is probably more inclusive—hang on a second. It is R&D, administrative, general business office ...

Council Member Scharff: I'll second it.

MOTION: Council Member Kniss moved, seconded by Council Member Scharff to apply the Development Cap to these Land Uses defined in Municipal Code Section 18.04.030: Research & Development, Administrative Office Services, General Business Office, Medical Office and Professional Office.

Council Member Kniss: I think what you want to know is the professional that Hillary read off, which came also in the Staff Report. I don't remember what page, or I'd go back and read it again.

Mayor Holman: What's not included here is general business office which is on the table that Staff has recommended. The motion should include general business office.

Council Member Kniss: I'm glad to do that, but that came next. If you want to have general business office uses here, that's fine.

Mayor Holman: That is a part of the Staff recommendation, if that's your intention.

Council Member Kniss: Right. In fact, I can continue on with the whole Staff recommendation. Because we started doing tiny bites, I was going to do just a tiny bite.

Council Member Scharff: I support all of this. The one thing I'd ask Council Member Kniss is if she would take out medical office. I don't feel strongly enough about it, but those are services that are very similar to things that we do in Palo Alto. Those are services that people use on a general basis. If we limit it ...

Council Member Kniss: You don't want to limit that?

Council Member Scharff: I don't. The medical office ...

Council Member Kniss: I don't have any trouble with that. I use the dentist too.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to remove from the Motion, "Medical Office."

Council Member Scharff: I don't think we want this to be big medical office, so I would like to limit it to medical office buildings that are under 5,000 square feet. That's a fair number.

Council Member Kniss: That's reasonable enough. I doubt that many of them are—they probably are pretty much 5,000 square feet.

Council Member Scharff: They tend to be small.

Council Member Kniss: Let's include that then. Medical office that is 5,000 square feet or under.

Mayor Holman: Council Member Kniss, you're intending to exempt medical office under 5,000 square feet, based on what I heard from Council Member Scharff.

Council Member Kniss: However it gets worded, we know that we're looking at 5,000 square feet or under.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion, "Medical Office over 5,000 square feet" after "General Business Office."

Council Member Kniss: I'm fine with however we word it, as long as we know that 5,000 is the limit to size of the medical office.

Medical offices have Council Member Burt: I will support this. characteristics in the community akin to retail. They're a local service that is valued by the community and in jeopardy. I am fine with including it with the proviso that we're going to be monitoring this over the next two years. This doesn't predetermine what we'll do at that time. I had a question in my own mind about how we would go about assuring that we don't have conversions of medical office to other office. I saw The Post had an editorial today that, for whatever reason, misconstrued the intent of the Business Registry to define it around one of its purposes, parking data. The Registry, if you have to register to be here, this future direction of we need tools to assure that in order to operate in our City, you have to comply with the use that you're permitted. That's going to be something that'll be important for us going forward. I don't think we have to have a full resolution to that tonight. It's something to bear in mind going forward.

Council Member Filseth: I'm much more comfortable with the medical exemption if there's a small limit on it like this. You brought it up. What's the compliance and enforcement mechanism? I like a local dentist too, but most local dentists don't build a 5,000 square foot building. They move into some place that exists already. You don't want big medical here. If there is a case where somebody builds a 5,000 square foot dental office, how do we make sure it's still a dental office next year, instead of something else?

Council Member Wolbach: The question about defining medical offices. Would this include ...

Mayor Holman: It's defined in the Code.

Council Member Wolbach: One thing that I would like clarity about, either from colleagues or from Staff, is would this include—I'm pretty sure it does, but I want to be very clear—mental and emotional well-being services. It says therapeutic, but I want to make sure that that applies also to mental and emotional well-being. A therapist, psychologist, etc. would be included even though those professionals do not have any sort of medical degree.

Council Member Kniss: I think I mentioned that earlier under professional rather than medical.

Council Member Wolbach: I believe that professional offices will not be exempted from the cap. I want to make sure that in our community, especially as we work towards ...

Ms. Gitelman: I refer you to the definition on packet page 907. It does refer to uses providing consultation, diagnosis, therapeutic, etc., healing arts for humans, licensed for such practice by the State of California. To the extent that a medical or psychological professional is licensed by the State, it would fall under this definition.

Mayor Holman: We're exempting up to 5,000 square feet of medical office.

Council Member Wolbach: I wanted to make sure that falls under there.

Vice Mayor Schmid: A clarification. We are looking at net new square feet. If there's currently a 20,000 square foot dental office, they can rebuild to 25,000 square feet and be exempt from the cap. Is that right?

Ms. Gitelman: That's correct.

Mayor Holman: We're ready to vote on this. I would point out one thing. Living near several medical offices, I can tell you there are major parking impacts. I don't think we're going to see a lot of development of this. Vote on the board please. That passes unanimously with Council Member DuBois not participating.

MOTION AS AMENDED PASSED: 8-0 DuBois not participating

Mayor Holman: That is the uses as outlined on packet page 907 that would be covered by this ordinance. Did we cover all the exceptions?

Council Member Wolbach: I do not think so.

Council Member Kniss: Under this you also have, Hillary, to clarify, accessory office uses, home occupations and government offices would not be affected. Do we need to clarify that?

Ms. Gitelman: Thank you for that question. That goes without saying, unless you feel differently. Unless you'd like something to be included, the motion you just adopted is fine.

Council Member Kniss: I think the previous one covered that, don't you?

Ms. Gitelman: Yeah.

Council Member Kniss: I think we've done land uses and exceptions unless I

missed something.

Mayor Holman: Council Member Wolbach has an exemption, I think.

Council Member Wolbach: We're trying to build a consensus and do these one at a time. Still continuing with land uses and exemptions. What I referred to earlier, self-mitigating projects. I'd move that exempt from the annual office cap would be self-mitigating projects which provide sufficient rental housing such that the jobs/housing balance would improve and which also provides substantial Transportation Demand Management plans individually or in cooperation with others to offset traffic and parking impacts.

Council Member Berman: I'll second (inaudible).

MOTION: Council Member Wolbach moved, seconded by Council Member Berman to exempt from the Development Cap, self-mitigating projects; projects providing sufficient rental housing such that the job/housing balance would improve, and which would also provide substantial Transportation Demand Management plans (individually or in cooperation with others).

Council Member Berman: My only reservation has to do with the rental housing. I'd ask the maker to explain a little more why he's carving out rental housing and not any housing. We have a deficit of any housing. If he wants to reply, that'd be great and then I'll keep going with my comments.

Council Member Wolbach: I agree that we have a deficit of housing in general. Rental housing is more fluid than ownership housing. If what we're talking about is the jobs/housing imbalance and trying to bring that back from insane to severe, rental housing provides a better opportunity for workers locally to live locally. Somebody who is renting is a bit more fluid and mobile in their housing; thus, more able to find housing here or to move somewhere closer to their job. It's just (crosstalk).

Council Member Berman: I don't disagree with any of that, so I'll go along. We need more ownership housing also. For purposes of trying to get some consensus on this, I do agree that we have a lack of all housing in Palo Alto and in Silicon Valley on the whole. The reason I support this is a development cap—this was mentioned by a lot of public speakers tonight—is a blunt tool. This is a way to use the blunt tool to our advantage by offering an opportunity for developers to develop projects that will benefit the

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community on the whole and to exempt themselves from what could be quite an onerous process. The hope here is that the stick of the development cap can encourage developers to take this stick of this exemption, add to our housing stock in Palo Alto, which we need to do, and develop projects that take responsible measures to mitigate their traffic impacts, which we also want to encourage developers to do. If the whole purpose of this development cap is to encourage the type of development we want to see in Palo Alto, this furthers that effort.

Council Member Filseth: This is problematic as stated. It's very vague. I could support something on the housing front. Currently the jobs-housing ratio in Palo Alto is about 3.3:1 or something like that. If you put a number on it that said it's going to have a jobs/housing ratio of less than three or something like that, I could see supporting that. The problem with the traffic mitigation is the stuff is impossible to measure and impossible to enforce. We say we're going to get GoPasses, and somebody does an analysis. It's impossible to measure, impossible to enforce. If we pass something like that that says substantial traffic mitigation, we're basically throwing out the whole idea of a cap. Every project will buy GoPasses and have public transit. You can't measure it, and I don't believe you can mitigate it 100 percent anyway.

Council Member Burt: First, I want to respond to the refrain that I heard from several members of the public, and now it's making its way up to the dais that a cap is a blunt measure. It's only a blunt measure if it's designed in a blunt way. We could use that descriptor. I'd like to put that one to bed. We've already done two different things that are not blunt. If you want it to be blunt, keep calling it blunt and we'll get blunt. Then we can get real rigid and not accommodate these kinds of less blunt components to it. What we're doing is we're in the process of designing it in a subtle way; that's not blunt. On to this particular motion. While I don't agree that it's impossible to measure or enforce full traffic mitigation, it has to be done in a very deliberate way. I would not support something that talked about substantial mitigation. My intent within this cap, from the outset, was to drive projects that would essentially have these elements within the 50,000 square feet, not have necessarily above it. This is part of why I've felt that this is an interim measure. As we go forward toward the Comp Plan, we may be able to, on the other side of this, have projects that we might choose above 50,000 if everything is fully mitigated. This was an interim measure. I want to see projects that fully impact their traffic and parking. There are ways to fully impact it, by addressing impacts that are not directly created by that project. It's neighboring projects. If you can hypothetically address half of your car trips or the net increase in those car trips, one thing to consider is if you have a 5,000 square foot building and you're going to 10,000 square

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feet, we're saying that they have to fully impact the net increase, which I think is what this says. In that sense, they do have some greater means to address it, because they can address the entire building, the baseline and the net. They might have to go further and address neighboring projects. If I can't address everything onsite, I may have to buy GoPasses for my next door neighbor and put in bike racks adequate for both mine and theirs, if I want to do the project. This is the kind of competition that we want to create on exceptional projects that would be what we need in the future to have development without exacerbation of our current problems. written, I won't support this because it doesn't go far enough. There are other impacts on the development when we're having 150,000 square feet per year that are part of the consideration. There's a temptation if people say whatever is their greatest concern represents the totality of concerns in the community. The quality of the projects themselves and their impact on the street and the neighborhood, those are other concerns as well. We haven't addressed those. That does go to the issue of what we're going to look at in aggregate at the end. If we're going to exempt every project that fully parked but it was an ugly, incompatible building, then I wouldn't support that.

Vice Mayor Schmid: I support the comment of my colleagues, Council Members Filseth and Burt. This is moving in the right direction. It has some of the right words in it, but there's a couple of stoppers. Number one, the use of exempt. We're beginning to talk about what are the criteria and processes we will use to select projects. Rather than exempt them from the limit, they should be the ones that are preferred choices. The jobs/housing imbalance is a critical factor we have to look at. To improve it means that you could have a jobs/housing imbalance of 2.99:1 and be exempt. What we're trying to do is get a balance between job growth and residents in town. This is moving in the right direction, but as stated with exempt and improve and substantial, it doesn't quite make it.

Council Member Wolbach: I appreciate the feedback from colleagues. First, I'm very open to friendly amendments to improve this. I understand where you're going, why the critique was raised that the jobs/housing imbalance improvement is not sufficient. My intention here was that a project that in itself provides full mitigation of its jobs through housing would be exempt, if it also provided full mitigation for its transportation impact. If there are better ways we can word that, I'm open to that. As far as other impacts that are not identified here, I fully recognize that there are many other impacts of development. These are the two most frequently cited by us and by the community. That's why I highlight them. We're talking about essentially a two-year pilot. If there are others now that you'd like to add, I'd be open to adding them. If there are others we find over the next couple

of years that needed to be added as well, we can. A fully self-mitigated project is going to be very difficult to achieve. If we word it properly enough, that it is that strict, it's going to be very difficult to achieve. I don't think we're going to have a lot of these. If somebody is creative enough to do it, we should encourage that. As far as the question about being in context and appropriate to the neighborhood and things like that, we're not talking about undoing all of our other ordinances and all of our other processes. I'm not talking about something skipping ARB or skipping all of our other rules about development. This is just saying that for the purpose of the numerical annual cap, some almost unicorn mythical, difficult to achieve, fully self-mitigating project should be exempted.

Mayor Holman: Council Members, in the next about 45 minutes we're supposed to take up the next item.

Council Member Scharff: I respectfully disagree with Council Member Burt in that this is an opportunity to experiment in the next two years and see what kind of projects we get if we did something like this. It should be tightened up, and I'll offer an amendment to this. Self-mitigating projects providing sufficient rental housing such that the jobs/housing balance would improve and which would also provide substantial Transportation Management plans, individually or in cooperation with others, to improve the current parking impacts and to improve the current traffic—what's the right word? Situation? If you did a traffic study and you said, "If you built this, you'd have a better traffic situation than if you didn't build it," that's what I'm trying to get to. The same with the parking. Council Member Burt's notion was right. Right now you have a 5,000 square foot building that has no parking. You build new parking and you fully park what you're going to build plus you park the existing 5,000, that would do it for me on the parking. If we had a traffic study that said this would be better than the existing condition, then we should support that project and shouldn't make it go through the cap.

Mayor Holman: Is the wording you're looking for "to improve the current parking and traffic impacts"?

Council Member Scharff: Yes. To improve the current parking and traffic impacts. As long as that captures for Director Gitelman what I just tried to say.

Ms. Gitelman: That captures it. We could measure that in terms of delay or congestion or even trips generated by the site.

Mayor Holman: Council Member Wolbach, do you accept that?

Council Member Wolbach: I do. I'd suggest that we continue to tighten up the language around the Housing Element as well.

Mayor Holman: Council Member Berman, do you also accept that?

Council Member Berman: Can I ask a question of the maker?

Council Member Scharff: Yeah.

Council Member Berman: I understand with parking. You used a good example for that. With traffic, how would you do that? What would that project look like?

Council Member Scharff: Director Gitelman said we could measure it two or three ways. You could look at it in time to go from Area A to Area B or you could do it in trips. If the project produced less trips, it would be great. I'd be fine if it increased the ability to go from "A" to "B" faster. I'll let you say more if you want to. I heard you say it was easily measureable.

Council Member Berman: Taking into account any mitigation efforts or ...

Ms. Gitelman: One example could be a project that reduces the amount of auto trips from a particular site. It has an existing development on it, proposing a new development with a net increase in office space, but somehow it's reducing trips. Alternately, you could measure it in terms of the change in delay or congestion experienced at a nearby intersection. We'd have to give some thought to exactly how to make it work. There's an idea here that could have legs in an ordinance.

Council Member Berman: I'll accept it.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion, "to improve the current parking and traffic impacts."

Council Member Scharff: I wanted to speak to the jobs/housing imbalance. You have tightened that up already. It says "provide sufficient rental housing such that the jobs/housing imbalance would improve." You could have a small project that does this. Council Member Filseth's notion that it would go from 3.3 to 3.1 would kill it, because you have no idea how many housing units it would take to do that. My sense is on the huge base of office space we have in this City—I forget. Do you know the amount of office space we have in this City?

Ms. Gitelman: There was about—I'm going to get it wrong. I'm sorry. I'm not going to guess. I have to look back at my notes. About 25 million back in the '90s.

Council Member Scharff: That was my recollection.

Ms. Gitelman: Since then we've added 1.-something.

Council Member Scharff: We have what, 66,000 housing units or something like that? Maybe even less.

Council Member Berman: No 24.

Ms. Gitelman: Less than that.

Council Member Scharff: 24,000. To move that jobs/housing imbalance by any real metric that you would say goes from 3.1 to 3.0, you'd have to provide too many housing units that would make it too large a project.

Council Member Filseth: I was going to respond to Council Member Burt's commentary. I am completely persuaded. He is exactly right. This is the process that we're trying to achieve with the competition, to try to foster these things. Rather than us trying to design these things by exemption ourselves, we unleash the creativity of the development community to try to do better and better projects. I'm completely persuaded by that. That's the right mechanism. We don't have this ordinance yet, and we're already putting exemptions and loopholes in it at this point. It's too soon. Council Member Burt's right about the process. It's designed to do this and will do it better than us trying to engineer it up here. As far as reducing the jobs/housing balance, we've got about 90,000 jobs in the City and 27,000 housing units or something like that. We won't make a significant change to that in one year. Over a period of decades, we will. How we do that depends on our policies. It does matter.

Council Member Kniss: I'm thinking of two things. The jobs/housing imbalance is something we've discussed for so long that, in many ways, I'm not sure that you can attack it like this or in any way that's an easy way to do it. We may look at 90,000 jobs. Since our Business Registry has hit a little bump in the road, I'm not sure that that's going to give us the answer we want right away. In a lot of those dwelling units, more than one worker is working. I know from hearing about the high rents, that frequently in the rentals now are two or three people who are working. Whether they're working in the City or not, I don't know. This is still somewhat amorphous. I would call out some projects that have gone in that are good examples of this. On the old PAMF site, there is housing. As far as I know, it's fully

parked. It's Woodmark. I've forgotten the name of the others. There's one on the corner of Homer, one on the corner of Channing and Bryant. They're 50 feet high; they are fully parked as far as I know. That is a good example of what you're talking about, Cory, which is a self-mitigating project. Whether or not it improved the jobs/housing imbalance, I don't know how I could say that. What it does do is when you get that close to Downtown, everyone who lives there talks about the great advantage of being able to walk Downtown. Whether walking Downtown is a Transportation Demand Management success or not, I don't know, but it's close to it. That's one of the areas that I would look at as certainly self-mitigating. Granted there isn't a lot of land to do that Downtown. We want to look at just this kind of thing, something self-mitigating—that's a little bit of an awkward word. I'm not sure if we toss that out to the general public without some explanation and they'll know what it means. I don't see any harm in having it tonight with that explanation.

Council Member Burt: The modifications that have now been made to this motion are substantial. We are now talking about whether to allow projects that would improve rental housing, which is generally the hardest to get built in the community, that would improve the jobs/housing imbalance, not merely not exacerbate it, and improve the traffic and parking. That's a high bar. We haven't had projects doing that in the past. It doesn't address some of the other concerns about design. As we move forward in our other discussions, this is something I'm going to want to be looking at in aggregate tonight on how we do that. This is a higher bar than what we would be driving within the 50,000 square foot cap, almost for certain. That puts a different spin on it. We may not get any projects that meet this set of requirements. It's an interesting framing. It's along the lines of what I've wanted to see out of the competition within the cap. If we say that we would allow a project outside of that cap that is not going to have a big office component. As we've seen on other projects, to fully mitigate the jobs/housing, it would have to be predominantly a housing project. Then it would have to have the entire project have a net benefit on parking and traffic impacts. I'm going to go ahead and support this motion.

Mayor Holman: Council Member Wolbach, you've already had two bites at this apple. Can I entreat you not to?

Council Member Wolbach: This is the kind of precise and careful surgical changes we all are hoping to make tonight.

Mayor Holman: Council Members, we'll be voting on an exemption from the development cap to be self-mitigating projects, projects providing sufficient rental housing such that the jobs/housing balance would improve and which

would also provide substantial Transportation Demand Management plans, individually and in cooperation with others, to improve the current parking and traffic impacts. Vote on the board please. That passes on a 6-2 vote. Council Members Filseth, Vice Mayor Schmid voting no, Council Member DuBois not participating.

MOTION AS AMENDED PASSED: 6-2 Filseth, Schmid no, DuBois not participating

Mayor Holman: Can we move then to ... I'm looking for which one of these next ones would be easier. The process is going to be harder. It is almost 9:00. We have one item that we have to get to, which is the Interim Urgency Ordinance for retail. We have a consultant waiting for Item 441. Is that true? Council Members, can we please speed up. I can ask Council Members to please be concise in your comments. Let's get to a motion quickly. Process and criteria for implementing an annual limit. Council Members?

Council Member Kniss: I'm going to reference the Staff Report again. As it has said, this is the process and criteria for implementing an annual limit. I can do these, Mayor, one at a time or try doing them all at once. I'll try the big bite of the apple. As it is listed here, the Staff Report suggests accepting and processing applications as they are currently, except no applications received after July 1st would be approved until after March 31st of the following year. Pretty Draconian, but that's the recommendation. At that point, if the square footage proposed by all the applications combined would exceed the annual limit, completed applications that have been recommended for approval by, for example, the ARB would be ranked based on scoring criteria and provided to the City Council for evaluation and action. That's a major comment. Finally, if the square footage proposed doesn't exceed the annual limit, the completed applications that have been recommended for approval would be acted on using the usual process. I'll wait and see if there's a second, and then I'll speak briefly.

Council Member Scharff: You're on which page?

Council Member Kniss: Page 12 of tonight's handout.

Mayor Holman: She's on the Staff presentation, Slide 12.

Council Member Scharff: I'll second it.

MOTION: Council Member Kniss moved, seconded by Council Member Scharff to:

- A. Establish a procedure by which applications are accepted and processed as they are currently; and
- B. Except that, no applications received after July 1 or the effective date of the Ordinance would be approved until after March 31 of the following year; and
- C. At that point, if the square footage proposed by all applications combined would exceed the annual limit, completed applications that have been recommended for approval by an appropriate advisory body such as the Architectural Review Board would be ranked based on scoring criteria and provided to the City Council for evaluation and action; and
- D. If the square footage proposed by all applications combined would not exceed the annual limit, the completed applications that have been recommended for approval would be acted upon using the usual process.

Council Member Kniss: Director Gitelman spoke very clearly earlier tonight about when the applications would be approved. Secondly, we have discussed this before as to how an advisory body would look at the scoring criteria, and then hand that on to us. I realize that could be a sticking point, but this is the clearest way that I have seen presented by Staff so far. If the square footage proposed doesn't exceed the limit, then that's not a problem. Over the past 15 years, it looks to me like there would have been ten times when we did not exceed the limit. Again, this is Number of 3 of five parts that we're discussing tonight. I hope, as the Mayor has urged us to do, we can move on this with more expediency.

Council Member Scharff: I'm going to support this. It's the best of what we've been offered. It's a difficult situation for people that they have to put in their application, wait a long period of time. It's a little difficult on Staff too. I assume you don't spend a lot of time reviewing it until you get close and see where you are, then maybe you do. It's going to bunch a lot of work up for ARB, for Staff, for all of that. Since this is a trial period, what I come back to is it's worth going in this direction as this is what Staff has suggested. Therefore, I support this.

Council Member Burt: It's generally good. The only issue that I have is where we have approval by an advisory body like the ARB. We need to be more specific here. We may need to defer to the end how we channel these things. Depending on what criteria we have, if they're traffic and parking issues, that's more appropriate to the Planning and Transportation Commission than the ARB. We have a Transportation Commission. If they

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are design elements, if we end up including those, then those would be more appropriate to the ARB. Staff may want to think about that process. Depending on which criteria, would it be one body or we separate that so one body reviews certain appropriate criteria and the other other ones. We need to determine that. I'm okay with these being placeholder motions. I would omit the ARB. I would simply say approval of the appropriate advisory body and will determine ...

Council Member Kniss: Why don't we make that change? It simply will say approval by the appropriate advisory body and not name it.

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

Council Member Scharff: I wanted to hear from Director Gitelman. I think she had a different notion when she drafted this about how this would work.

Mayor Holman: Can I offer something, just to try to move us along? That's a nuance that can be determined when the ordinance comes back to us and is reviewed by the Planning Commission, instead of us trying to hash it out tonight.

Council Member Scharff: This is an important motion. Putting in the office cap is really important, and we should get the answers to this stuff and be correct about it and deliberate in it. I realize that we need to get stuff done tonight, but that shouldn't sacrifice what we're doing.

Mayor Holman: We're only talking about which review body is going to make the recommendation. That's all I'm referring to.

Council Member Scharff: I wanted Director Gitelman to say how she was planning—I believe she wasn't planning on having a review body. She's talking about the ARB early stuff. Looking at this, you go to that and then you score it after the ARB had done some of that stuff. I'm not sure that this is the correct approach.

Ms. Gitelman: If I can clarify. Our recommendation was that applications basically be processed the way they are today. If something requires review by the ARB, it would be reviewed by the ARB. Then it would be on hold. The ARB would recommend approval, but it would stay on hold and no decision would be made until we knew whether the annual limit was going to be exceeded. At that point, if the annual limit was not going to be exceeded, the Director could make the decision. The project could be approved, and it could be appealed or not to the City Council. If the annual limit was going to be exceeded, then Staff would apply the criteria and bring the projects to the Council for the Council to decide which projects go

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forward and which go back in the pool for the next year. We're talking about the ARB having the same role it has right now, which is recommending approvals. If there was a project that required Planning and Transportation Commission review, similarly they would make their recommendation, but the final decision wouldn't be made until we knew whether the limit would be exceeded for that year.

Council Member Scharff: Is it okay to put appropriate advisory body then or is that a problem?

Ms. Gitelman: That's fine.

Council Member Scharff: I'll accept it.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to remove from the Motion Part B, "such as the Architectural Review Board."

Council Member Kniss: The wording, I'd like Hillary to take a look at it and see if we've expressed what she has said.

Ms. Gitelman: That's fine. In Item B, in the Staff Report we say "except no applications received after July 1st or the effective date of the ordinance." We are now so close to July 1, we're going to have to do this after the start of the fiscal year.

Council Member Kniss: It's important that this be clear to the Planning Department. If that's clear to you, which means that currently applications will be taken until this goes into effect. After it goes into effect, they will not be taken.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion Part B, "or the effective date of the Ordinance" after "July 1."

Ms. Gitelman: We would still receive and process applications. There would be no final decision until after March 31st.

Vice Mayor Schmid: It's important that we send a clear message to the public and developers, creating incentives for vibrant, mixed-use, commercial centers. I'll offer an amendment that substitutes in "C" after "at that point," "preference would be given to projects that have a jobs to employed resident ratio of less than 2.3:1."

AMENDMENT: Vice Mayor Schmid moved, seconded by Council Member XX to add to the Motion Part C," give preference to projects that have a jobs/housing ratio of 2.3:1 or less" after "at that point."

Council Member Kniss: That's more complicated than I want to get on this one. Maybe we can take it up in another one. If there's a second to that, then we'll go on with it.

Mayor Holman: The original motion was made by Council Member Kniss. She did not accept that. Do we have a second to this motion? Seeing none at this time, we return to the main motion.

AMENDMENT FAILED DUE TO THE LACK OF A SECOND

Council Member Burt: We do yet need to address criteria. Staff had made recommendations on page 13. It is cleaner for us to deal with process first, then criteria, even though one of Staff's bullet points listed process and criteria together. Second, briefly so we can bear this in mind when we get to that. It's appropriate for us to say within the different criteria which might have the heaviest weighting. I'm not sure that we should get into trying to define exact ratio tonight on where we trigger it. It would be perhaps a combination of values. We might see something at 2.2:1 that has full traffic and parking mitigation, and something at 2.3 that has crappy traffic and parking mitigation. I want to put that out there, so that we don't spend unnecessary time when we get to criteria.

Mayor Holman: Council Members, we should vote. We are going to vote on establishing a procedure by which applications are accepted and processed as they currently are, except no applications received after July 1 or the effective date of the ordinance would be approved until after March 31 of the following year. At that point, if the square footage proposed by all applications combined would exceed the annual limit, completed applications that have been recommended for approval by an appropriate advisory body would be ranked based on scoring criteria and provided to the City Council for evaluation and action. If the square footage proposed by all applications combined would not exceed the annual limit, the completed applications that have been recommended for approval would be acted upon using the usual process. Vote on the board please. That passes on a 7-1 vote with Vice Mayor Schmid voting no, Council Member DuBois not participating.

MOTION AS AMENDED PASSED: 7-1 Schmid no, DuBois not participating

Mayor Holman: We now go to the criteria for administering a competitive annual limit.

Council Member Scharff: I would move the Staff recommendation on page 10 of the packet, which is evaluate applications subject to the annual limit. It's packet page 912. Evaluate applications subject to the annual limit using the following criteria: their intensity of use; their ability to avoid or address potential impacts on traffic and parking; the quality of their design including their attention to human scale where the buildings meet the street, their compatibility with surroundings and their overall architectural quality; their environmental quality; and the monetary or nonmonetary value of public benefits offered.

Council Member Kniss: Second.

Mayor Holman: Motion by Council Member Scharff, second by Council Member Kniss.

MOTION: Council Member Scharff moved, seconded by Council Member Kniss to evaluate applications subject to the annual limit using the following criteria:

- A. Their intensity of use; and
- B. Their ability to avoid or address potential impacts on traffic and parking; and
- C. The quality of their design, including their attention to human scale where the building(s) meet the street, their compatibility with surroundings, and their overall architectural quality; and
- D. Their environmental quality; and

The monetary and/or non-monetary value of public benefits offered. Council Member Scharff: I believe this is almost word for word of what was included in our original motion when we talked about criteria.

Ms. Gitelman: Thank you for that clarification. This is only the Staff recommendation because it's what you asked us to put in here.

Council Member Scharff: I wanted to say it was the Staff, but I wanted to remind everyone this is what we unanimously voted on. We had a long discussion about these different criteria the last time we dealt with this. I supported them then, and I support them now.

Council Member Kniss: If you're looking at that page, let me ask Council Member Scharff. I don't think as an alternative, but we could consider an addition that says "our intent is to give priority to mixed use projects providing sufficient housing such that job increases would not worsen the

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housing/jobs imbalance." Cory may have addressed that already in his comment—no?

Mayor Holman: That was under exemptions. It wasn't the criteria.

Council Member Kniss: In that case, I wonder if the maker of the motion would consider adding that. I'm not married to it, but it's not a bad idea.

Council Member Scharff: This is going to come to Council, the scoring. For me, it's a packet of things. It's dangerous to say that one item is more important than the other. You might have one that has a lot of housing, but the other has great design, has very little traffic or parking impacts, but doesn't do as well on the jobs/housing. I'm not willing to say that that's the most important thing to me, because it's not.

Council Member Kniss: I appreciate the discussion. We should continue with the motion that ends with "public benefits offered."

Council Member Wolbach: I would offer an amendment, hopefully friendly. We're talking about potential criteria. We're not talking about one necessarily outweighing all the others. A significant amount of housing as relating to the jobs should be included as an item. I'm not sure what the best wording would be.

Mayor Holman: Can you offer language please?

Council Member Scharff: Why don't you say "a mixed-use project including housing"?

Council Member Wolbach: Yeah. "Mixed-use projects including substantial housing."

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

Council Member Scharff: I do accept that.

Mayor Holman: Council Member Kniss?

Council Member Kniss: Yes.

Mayor Holman: That's incorporated.

INCORPORATED INTO THE MOTION WITH CONSENT OF THE MAKER AND SECONDER to add to the Motion, "Mixed use projects including substantial housing."

Council Member Scharff: I want to add one as well, which would be mixed-use projects including retail. Retail's great.

Mayor Holman: Council Member Kniss, do you accept that?

Council Member Kniss: (inaudible).

INCORPORATED INTO THE MOTION WITH CONSENT OF THE MAKER AND SECONDER to add to the Motion, "Mixed use projects including retail."

Council Member Burt: I'm good with those. The only other thing that is troubling me is I don't know what this intensity of use is intending. Are we saying that no matter where they are in the City, a project with more intense use is bad.

Council Member Scharff: I would take it out, if you want to make that.

Council Member Burt: Alternately, I was thinking about this. There is something appropriate about this topic. What I was thinking is "intensity of use in the context of underlying zoning and its surroundings." If that's acceptable as an amendment.

Mayor Holman: Council Member Kniss, do you accept that?

Council Member Kniss: (inaudible)

INCORPORATED INTO THE MOTION WITH CONSENT OF THE MAKER AND SECONDER to replace in the Motion Part A, "their intensity of use" with "intensity of use in the context of underlying zoning and its surroundings."

Ms. Gitelman: Mayor Holman, if I can interject. I have a feeling that when that came up originally, it was about the employment density. That issue that we've talked about a lot. The suggestion was that you would give higher preference to an office use that was not going to cram more employees in there than would be the average. That's my guess.

Council Member Burt: That would be a reasonable consideration, but I don't know how this process would enforce that. That's outside of this, whether it's a business license tax or some other way that we would address it. I don't know if there was a way that we would control intensity of use. You're right, Hillary. Now that I think about it, that may have been the intention. If there was some way to control intensity of use, then that might be something that we would favor. Did Staff have an idea about how that would be done?

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Ms. Gitelman: I thought the Council's intention of including it in the criteria was to encourage the applicants to come forward with a proposal that would address that issue.

Council Member Burt: Let's say they come forward and say, "I'm only going to have a maximum of 3 employees per 1,000 square feet in my office." How do we enforce that going forward? They can come in and say they're going to do that. I don't know how, under our current set of controls and regulations, we could enforce that. It's something that is a big, important issue for us in the future. I don't think we have those tools right now.

Ms. Gitelman: I agree with you. My thought was that we would put the onus on the applicants to propose a monitoring and enforcement mechanism, if this was a criteria that they wanted to score highly on.

Council Member Wolbach: On the intensity of use issue, if the total number of employees is the same, most Palo Alto residents would rather the intensity of use for the office space be higher. That would mean that the physical structure would be smaller, allowing either more space for retail or housing or a smaller overall structure. Since we're already addressing things like encouraging retail and housing, mitigating traffic and parking, I would be less inclined to support the intensity of use issue, but maybe support something that says "a constrained number of employees." If you're talking about, say, 100 employees, most Palo Alto residents would rather those 100 employees be in a smaller building than a bigger building.

Vice Mayor Schmid: Just a couple of clarifications. Under "D," we have a five. Council Member Scharff, in your motion, it says in "F," "substantial housing." As I recall earlier, you made a comment that a word like that doesn't have much meaning. Can you give context to that?

Council Member Scharff: Sure. It is a little more fluid in this, but this is a criteria where people get rated on how they did it. The Council will look at this and either think it has substantial housing or it doesn't have substantial housing. That may mean, in the whole package of context, I don't see that we need to say "has more housing than office." We just say it has substantial housing. That's fine, because we as a Council may say, "It doesn't meet the substantial housing context." We may think it does given the package.

Vice Mayor Schmid: I'm concerned that something like the State Density Bonus Law says if you had three units, it's substantial housing.

Council Member Scharff: It's up to us, right?

Vice Mayor Schmid: Should we give a hint of what it means to be up to us?

Council Member Scharff: What would you suggest as a hint?

Vice Mayor Schmid: How about a jobs to housing ratio in mixed use of 2.5 or less.

Council Member Scharff: I'd find that to be too prescriptive.

Mayor Holman: Can I suggest that this is something that Staff can come back with some options that would address this. Instead of us trying to hash them out in detail tonight. Council Member Burt needs to clarify something.

Council Member Burt: Yeah. I realize now after Hillary explained what was intended on intensity of use, that what I proposed and Council Member Scharff accepted doesn't follow that intention. Mine would have been describing a criterion around density of development. We could have density of development replace intensity of use under this.

Council Member Scharff: I was going to ask you that question.

Council Member Burt: We still have a question. Is there some way we could address intensity of use, which is a big, value issue? I remain open to that, but I haven't been able to come up with a way to do that.

Council Member Scharff: Density of development in the context of underlying zoning and surroundings. I'm good with that.

INCORPORATED INTO THE MOTION WITH CONSENT OF THE MAKER AND SECONDER to replace in the Motion Part A, "intensity of use" with "density of development."

Council Member Filseth: I like where Number A is going. I share the concern that trying to manage the intensity of use in terms of employee density at the time the building is designed is very difficult. On the other hand, it seems to me that there ought to be value—maybe this is understood, but it's not delineated. A project which meets Code without variances and exceptions out to be something that we take a look at as we consider these things. We're starting to go through there in terms of the context of underlying zoning and surroundings. Is that part of what you meant? It meets zoning.

Council Member Burt: If we had two projects, and one had a whole bunch of exceptions breaking out of the zoning. Zoning allows something, but you look at the surroundings and it's a four-story proposed with a bunch of one

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and two stories around it. That's part of that concept. We had a project Downtown along those lines.

Council Member Filseth: I agree with that. To the extent that this favors projects that meet Code and are compatible with their surroundings, this is good. Number E, the monetary or nonmonetary value of public benefits offered. I wish I understood that one better. It sounds a little like PCs. Is that good?

Council Member Scharff: We've pretty much got this. I did want to comment on the intensity of use concept. I don't think there's anything wrong with intensity of use if you mitigate the issues that come with it. More people in a building where there are no traffic and parking impacts is a good thing. I don't think that's a bad thing, depending on the context of where it is. To limit that issue is the wrong thing to limit. We need to focus on the impacts of having those people. More people in the Downtown core, for instance, is a good thing. It adds to retail vitality. It adds to all sorts of feelings that make Downtown great. That may not be true in other areas of the City, but it's true in Downtown. The problem with the intensity of use is simply the parking and traffic issues when we come to that, and height and massing. If we meet all of that, having more people there shouldn't be an issue.

Council Member Burt: That would apply if this was written differently. It doesn't require 100 percent mitigation of traffic and parking. The carve-out did. The exemption of Council Member Wolbach did. This would not necessarily do that. You could have more intensity that only partially mitigates traffic and parking under this. In this more idealized way, which we may see that developers can come up with projects that would 100 percent plus mitigate traffic and parking. If we see those projects, that may influence our thinking going forward about that principle.

Mayor Holman: One thing that I would ask to be accepted as a specific reference is—City Manager knows I've been trying to promote this in some arenas—an "H," "mixed use projects that provide space for cultural amenities such as, but not limited to, art galleries and studios." Is that acceptable to the maker?

Council Member Scharff: Yes, that would be acceptable to me.

Mayor Holman: Council Member Kniss?

Council Member Kniss: It's more than acceptable, but we're hanging a lot of bulbs on this Christmas tree.

Mayor Holman: We are.

INCORPORATED INTO THE MOTION WITH CONSENT OF THE MAKER AND SECONDER to add to the Motion, "mixed use projects that provide space for cultural amenities such as but not limited to art galleries and studios."

Council Member Kniss: Not that they're not attractive. This is a lot. We're up to what, ten of them now.

Mayor Holman: Let me hang one ornament on this tree. I wanted to get it out there and listed, because we don't get this kind of amenity. That's why I wanted to specifically list it. Thank you all. We are ready to vote. This is to evaluate applications subject to the annual limit using the following criteria: density of development in the context of underlying zoning and surroundings; the ability to avoid or address potential impacts on traffic and parking; quality of their design including their attention to human scale where the buildings meet the street; their compatibility with surroundings and their overall architectural quality; their environmental quality; the monetary and/or nonmonetary value of public benefits offered; mixed-use projects including substantial housing; mixed-use projects including retail; mixed-use projects providing space for cultural amenities such as but not limited to art galleries and studios.

Council Member Burt: Your amendment triggered this. I'm a bit troubled by how specific that amendment is. What it did trigger in my mind is that we've given no guidance on how these things would be comparatively weighted, what's most important. I would love to see more art galleries and studios. I don't think it's anywhere near as important as other of the selection criteria that we have listed here. I'm troubled that we haven't given that guidance. As it stands right now, would Staff interpret this motion to treat all these equally?

Mayor Holman: I'm aware and was aware that we hadn't ranked these. I was thinking that we could rank those and rate them when they come back, after public vetting and after Planning and Transportation Commission.

Council Member Kniss: Yeah, let's do that.

Mayor Holman: Is Staff okay with that?

Council Member Burt: If Staff is perceiving that they've received some general guidance from our comments as to what's most important and they're not going to treat this as a starting point of all these being tentatively equal in importance, I'm okay with giving them that discretion.

Ms. Gitelman: Thank you, Mayor Holman and Council Members. We understand your desire to weight these. Absent your direction, we would have to decide how to order them.

Mayor Holman: This is coming back though.

Council Member Burt: We've had some very extensive discussions about what's most important. We're looking for you to come back with tentative weighting that would probably align pretty well between your professional outlook and what has been discussed extensively over a series of meetings. We have pretty good alignment on what's most important. If you're saying you don't know without more guidance, then we've got to hammer that out tonight.

Ms. Gitelman: We'd be happy to take a shot at it.

Mayor Holman: Council Members, with that let's vote on the board please. That vote passes unanimously with Council Member DuBois not participating.

MOTION AS AMENDED PASSED: 8-0 DuBois not participating

Mayor Holman: It is 9:31. City Manager has not quite yet reminded us that we can't take up a new item after 10:00. Let's hit it. Applicability to pipeline projects.

Council Member Scharff: I would like to raise that issue. Are we going to get to the Page Mill project? We clearly need to do the retail. We clearly need to do everything else. I'm happy to wait until 10:30 to make that decision. If we think we're not going to do it in an hour, we should let people go home.

Mayor Holman: The retail one will go fast. It's just an extension of what we already passed. Because we're running up to the vacation, we have agendas that are full already. If we take 441 and punt it to the next meeting, plus we've had a consultant waiting for all this time.

Ms. Gitelman: Mayor Holman, if I can interject. I hate to put this out there. The pipeline is something that is always changing. We heard from a speaker tonight that there's going to be an application filed tomorrow. It is possible that we could defer the discussion of pipeline until after your break. At that point, it would be based on the pipeline at that moment. We're going to need the time anyway to prepare a draft ordinance and bring it through the Commission and get their recommendation on the rest of these issues that you've hashed through this evening. It is possibly something that could be deferred.

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Mayor Holman: I'm hearing rumblings to my left. They want to address the pipeline tonight or take a crack at it.

Council Member Kniss: If I may speak. What Hillary has suggested is a good idea. From my careful look at that pipeline, it is in constant flux. There are three incompletes that are important. I would certainly be fine waiting. There's no grumbling coming from me about that.

Council Member Burt: We had Staff recommendation on the pipeline on the PowerPoint presentation page 14. If we think we would have consensus around that, then we can move forward. If we're going to have debate, I'd be fine with punting it.

Mayor Holman: Are you proposing that as a motion and see where we get with it in short order?

Council Member Burt: I think so. I'm trying to think it through. As I think about it, I might lean toward seeing what comes forward and giving it more thought. That's where I'm leaning right now.

Council Member Scharff: I am troubled by the notion of people who put in their application in 2013 or 2014. I'm not that troubled by 2015. They've been at this for a couple of years. The reasons an application may be incomplete or complete vary. I wanted to get a sense from Director Gitelman of are they sitting on it, not moving it forward, are there real reasons why it's not complete.

Ms. Gitelman: Thank you for the question. Again, this table in the Staff Report is as of March 31st. I know for a fact that two of the applications that are shown here as incomplete are now complete.

Council Member Scharff: Which ones are those?

Ms. Gitelman: The two on Park Boulevard. I think it's 2747 and 3045. Of course, the 255 Park has been approved. 441 Page Mill, we're going to discuss later. I'd have to look at the rest of these and see what their current status is.

Council Member Scharff: 2747 Park, you said is complete.

Ms. Gitelman: That's correct.

Council Member Scharff: Obviously 255, because that came before us. 3045, is that complete?

Ms. Gitelman: That's complete.

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Council Member Scharff: 3045 is?

Ms. Gitelman: It is complete. I don't know the status of the others that are shown here as incomplete, I'm afraid. I'll have to consult with Staff.

Council Member Scharff: I'm either happy to do it tonight. I probably wouldn't support if it was just a matter of being incomplete without understanding why it's incomplete. If you've had your application in for a couple of years—the PC one is also an interesting one. My recollection was that they changed that to submit a plan that wasn't a rezoning, but maybe they never did that. I remember hearing something about that, but maybe they never did. We need to be fair and reasonable to people that have had their projects in the pipeline for two years. That's all I'm saying. It might be a little arbitrary to say complete or incomplete, but it may not be. Are you going to bring those back to us and we'll take a look at it.

Council Member Filseth: I would worry about if we put the discussion off until the fall, then this is going to be weird coming back in the fall and saying, "We've got something that's retroactive to July 1, 2015."

Council Member Scharff: (crosstalk) tonight.

Council Member Filseth: I agree with you. That's going to be weird. People that are rushing to get their applications in, because they think July 1st might be the date, then they're going to have to wait. It seems a little awkward to me. It's a real issue. We've got 120,000 square feet of office space in the pipeline for the Cal. Ave. area alone. This is something we need to deal with.

Mayor Holman: Council Members, is there a motion? We're not going to deal with it if there's no motion.

Council Member Kniss: I was persuaded by you, Mayor Holman. If we could move and get the others done tonight, you've mentioned your very tight schedule for the next two meetings. Given what Hillary has said, we probably will take this up in August. Do you think so? I'm guessing that's when we'll hear it. It's probably six or seven weeks from now.

Mayor Holman: My concern is if we wait very long, these projects—August is another two months away already. I don't know what the best way is to address these, but 441 we're taking up shortly. 2555 has been approved. We have, we know tonight, two more projects that have applications that are complete on Park Boulevard. I'm sympathetic to Council Member Filseth and have been, as Director Gitelman and others would know, sensitive to what's happening in the California Avenue area for some time. If we just

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look at the 35,000, let's call it 35,000 square feet—I know that. I can't read that. This is very hard to read. I apologize. Let's call it 35,000 square feet off the 120, that's still a major hit to the California Avenue area. I don't know what the answer to that is, if we have complete applications there.

Council Member Scharff: I would move that if they submitted the application in 2013 or 2014, that's fine. We took this up on February 9th, the first time. That's when people had notice of it. We probably had notice 11 days before that. I don't think anyone would be affected by that, who didn't have notice. If you've been working on this for two years, you should be grandfathered in.

Mayor Holman: Did you mean to include if their applications are complete?

Council Member Scharff: No. If I get a second, I'll speak to why. Tons of people have gone to the ARB. That's not submitting an application. These are the people that have submitted an application, worked on this and spent substantial amounts of money on this.

Council Member Berman: Second.

MOTION: Council Member Scharff moved, seconded by Council Member Berman to exempt projects in the pipeline since 2013 or 2014 from the Development Cap.

Council Member Scharff: What Director Gitelman said earlier struck me. There are a number of applications like the one on Cambridge, for instance, where Mr. Pearce spoke to us tonight. People have gone to the ARB; they've spent a bunch of money as well. I assume they've drawn up plans, that kind of stuff. They're not included in this. The people that have submitted these applications have gone through this and spent substantial amounts of time and substantial amounts of money over the last, if it's '13, over the last two years. If it's '14, over the last year. To now say that we're going to hold their approvals for what could very well be—under our thing we're now going to wait until March for them to know whether or not they're in the queue. That's blatantly unfair to them. I can't support that.

Council Member Berman: I completely agree with Council Member Scharff.

Council Member Burt: That's an important consideration, but I don't think the initial year of submittal should be the sole basis that we determine that. I'm looking at the list. There are some that were submitted in '14 that were not complete, and they're still not complete. I don't think that those should be necessarily approved in the pipeline. I'm not going to be able to support

this motion. In the interests of expediency, in my mind we're back to punting on that.

Council Member Filseth: The problem is that if you add up all the projects here, the '13 and '14, you're looking at 140,000 square feet already. That would be like the largest year in memorable history. Two things. One is our criteria in the past has been approval as opposed to submitting an application. That's a reasonable place to draw the line. A good project will still be a good project in 2016. If it's a good project, then presumably it'll rise to the top of the criteria and it'll get approved then.

Council Member Scharff: Of the 100-some thousand square feet, 70,000 is already complete or approved.

Council Member Filseth: It's not approved; it's just complete.

Council Member Scharff: Park Boulevard is.

Council Member Filseth: I agree with (inaudible).

Council Member Scharff: It's not that much more, and it's a fairness issue. I don't think the default is that we then punt. The default is maybe we don't get an office cap. This is an important issue to me. I'm willing to give in on the first issue where we had a fight about it and it was a 4-4 vote, and support doing away with the area plans for the two years and looking at it. I do not feel comfortable, and I won't vote for the office cap if we don't include the 2000, 2014. I would be willing, if Staff came back to us and said, "These people haven't done anything in six months on this project." That may very well be that PC project; I don't know. If people have been working on this and haven't abandoned it, I don't think it's right.

Council Member Filseth: It is a lot more office space if you look at the criteria of approval versus application complete. On the approval, we approved Park Boulevard, so I agree with you on that one. That one should go forward and be part of the thing. It is a lot more office space if you separate approved versus submitted.

Vice Mayor Schmid: Just a clarification. Is this list a list of everything in the pipeline? There are no submissions from 2013 or 2014 that are not on this list. Is that right?

Ms. Gitelman: This is the list of pending discretionary applications in our department as of March 31st. There could be applications that have come in since March 31st; although, I don't know of any. There could be things that don't rise to the level of requiring a discretionary approval or were a

preliminary ARB that wouldn't be on this list. We discussed that distinction earlier.

Vice Mayor Schmid: If we come back in two months, in August or something, this list would be unchanged or pared down if anything?

Ms. Gitelman: The list would change in that any applications approved since March 31st, when we bring it back, would no longer be on the list. 255 Park is a perfect example. In addition, it would now include any new applications that have been filed since March 31st. Mr. Pierce's suggestions that he's filing an application tomorrow, his project would appear on this list.

Vice Mayor Schmid: This motion might increase the number in the pipeline.

Ms. Gitelman: (crosstalk) motion.

Mayor Holman: No, it wouldn't increase the number in the pipeline.

Ms. Gitelman: You asked me how this pipeline list is defined. It includes active applications. It could be that we get new applications between now and when we come back.

Vice Mayor Schmid: There would be additional ...

Council Member Scharff: No (inaudible).

Mayor Holman: The motion itself would not increase the number of projects. It's just that additional projects might come forward.

Vice Mayor Schmid: The possibility, if we postpone beyond tonight.

Council Member Scharff: This limits the projects to those '13 or '14. If they came in '15 or later ...

Council Member Burt: You can't go back in time.

Council Member Scharff: If they come in '15, '16 or '17, they would be subject to the cap.

Vice Mayor Schmid: My question is, is the listing comprehensive of everything that has been submitted.

Council Member Scharff: In 2013, 2014.

Council Member Wolbach: I've a couple of thoughts for colleagues to think about with this one. One, exempting projects in the pipeline. This is not a

motion. I'm putting a couple of things out there for colleagues to think about. It's important that we resolve this tonight. Right now, I don't think anyone has the votes. I'm undecided; I have mixed feelings about this. I'm hearing what's starting to sound like a good debate. I'd like to make up a decision, but I'd like more clarity. Projects in the pipeline is too broad to win a vote tonight. I would encourage Council Member Scharff to consider tweaking that to make it little bit more narrow and clear and/or Council Member ...

Council Member Scharff: The projects on this page that are from 2013, 2014, that's acceptable, because that's what I meant.

Council Member Wolbach: In that case, Council Member Filseth, it sounded like you were moving in a different direction. If you had an amendment to offer, so we can move forward with the debate, I'd be happy to hear it, if you had an alternative proposal. That way we can see two proposals and think about them, evaluate them and make a decision, so we can resolve this tonight.

Council Member Filseth: Here's the issue. Between 2013 and 2014, there's 100,000 square feet of projects there already. It's a two-year ordinance. If we exempt 100,000 square feet of existing projects in the pipeline, we don't have a meter anyway. We just used up our whole meter. If you want to say that this 100,000 square feet is the whole allocation for the next two years, that would be okay. On the face of it, if we approve everything in the pipeline, then we don't have a cap anyway. It would be reasonable to say that we exempt things that are approved by July 1st. There's a huge amount of work that's been done by the time you finally get approval. There are a couple of things in here, 2555 for example. If we add 100,000 square feet, then we just defeated the whole purpose.

Council Member Kniss: Looking at this and taking it apart now that we've gotten into the discussion. I'm on packet page 922, which is where the rest of us are as well. It's interesting to me that there's only a couple that are basically in what I call the Downtown. What looks like could be 60,000 square feet is on Park Boulevard. The last three are exempt anyway. Those are not in the areas that we're discussing. What's interesting to me about this is that—I will be very surprised if Number 5 comes back to us. That's the one that got wound up in the PC zoning. I'm looking at this and thinking somewhat hesitantly that I could support Council Member Scharff's suggestion that we move with this so that we are stuck again. I could be wrong, Hillary, but I don't think everything on here is going to come to fruition.

Council Member Burt: In response to Council Member Wolbach's request for an alternative, I would modify the original motion by saying anything in 2013 or '14 that was applied for in 2013 or '14 and for which the application is complete. No second?

Mayor Holman: I don't think it's any ...

AMENDMENT: Council Member Burt moved, seconded by Council Member XX to add to the Motion, "which the application is complete" after "or 2014."

Council Member Burt: I also have a question of City Attorney. If we make a distinction based upon the date of application, is that acceptable legally as opposed to where it is in our approval cycle?

Ms. Silver: As long as you provide the vested rights, that's the building permit projects, as long as you exempt.

Council Member Burt: This accedes vested rights and, therefore, it's discretionary. Is that what you're saying?

Ms. Silver: I think so. We would have to take a second look at it, but that would be my off-the-cuff answer.

Council Member Burt: I don't see anybody seconding my amendment.

AMENDMENT FAILED DUE TO THE LACK OF A SECOND

Council Member Burt: If not, then I don't think we're getting anywhere tonight. I'm not going to support this motion. I would say we're going to have to defer it.

Mayor Holman: I'm going to offer a substitute motion which is to exempt projects in the pipeline that have received project approval by July 1 or the effective date of the ordinance.

Council Member Filseth: I'll second that.

Mayor Holman: Council Member Filseth seconds that.

SUBSTITUTE MOTION: Mayor Holman moved, seconded by Council Member Filseth to exempt projects in the pipeline that received project approval by July 1, 2015 or the effective date of the Ordinance.

Council Member Kniss: I'll second it. That makes some sense.

Mayor Holman: Council Member Filseth beat you to the punch, but I appreciate that.

Council Member Kniss: Sorry. He wasn't speaking up.

Mayor Holman: The reason I offer this is because it's been spoken to here in ways that I won't repeat. There isn't vested rights with an application being complete. One thing I will repeat is how much of the square footage is being proposed in the California Avenue area. We're next week taking up the Fry's plan, which is part of the California Avenue concept plan. If you look at two of these projects that are on Park Boulevard, they're the two largest single projects except for the PC. Park Boulevard is the area of the Fry's site. We're developing the site without having a plan in place. It's fair. We've been talking about this for how many months now? Going back to the last campaign. It's fair, and it's fair to the public. That's why I proposed this and appreciate Council Member Filseth seconding that.

Council Member Filseth: What do we anticipate the effective date of the ordinance is going to be? Just so I understand.

Ms. Gitelman: If we get sufficient direction this evening, we'll prepare a draft and bring it to the Commission. We'll be back to the Council after the break. Whenever you adopt an ordinance, it requires two readings and it'll be effective 30 days after that.

Council Member Filseth: We're looking at some time in the middle of the second half, like October or something like that?

Ms. Gitelman: We're talking about the fall.

Council Member Filseth: The fall. That's okay. It gives us some latitude to approve a couple more projects if we feel that that's an important thing to do.

Council Member Berman: Just to ask Staff for a quick clarification. Complete means they've gone through the process of going through the Staff approvals, but haven't necessarily come to Council versus approved means they've come to Council. Can I get a clarification of what the difference is between complete and approved? The City Attorney's shaking her head now.

Ms. Silver: Are you talking about on our list? Application completed means that they have submitted all of the necessary paperwork to begin ...

Council Member Berman: Does application completed mean application approved?

Ms. Silver: No, no.

Council Member Berman: Approved is a step after completed obviously. You've got incomplete, complete and then approved.

Ms. Silver: Approval comes with the entitlement phase. The first process is to make sure that they have all of the necessary application prerequisites. Once that is done, the terminology that we typically use is application complete. Then we go to the processing of the entitlements. You typically go to the ARB and the Planning Commission and then Council on appeal.

Council Member Berman: I have a quick question for Council Member Burt. As written up, it says that you had proposed exempt projects in the pipeline, I'm assuming, since 2013 or '14 which are complete. Is that what you had meant to say?

Council Member Burt: Yes. It should have read "in which the application is complete."

Council Member Berman: I'm going to vote against the substitute motion and encourage the maker of the original motion to accept Council Member Burt's amendment.

Council Member Kniss: I need to unravel this a bit. I would have seconded this. The substitute motion, "where it has received project approval by July 1st" works for me. That's where I am.

Council Member Scharff: I could support Council Member Burt's amendment as well. We have to be clear what we're doing. I would vote for this if this said "are complete by July 1st." That would be completely fine with me. What this says is "approved." This is more restrictive in a large way than Council Member Burt's. This pulls it back to the only project on this list is either 2555 Park Boulevard or 441 Page Mill. Those would be the only ones you'd be approving in the pipeline if you voted for this substituted motion. I will amend the substitute motion and see if we can change it to "are complete by July 1, 2015."

Mayor Holman: You mean applications complete?

Council Member Scharff: Yes, the application is complete.

Mayor Holman: That's what Council Member Burt had offered as an amendment, right?

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Council Member Scharff: That's my belief. I would support that. I would make that as an amendment.

Mayor Holman: I don't accept that or I would have seconded Council Member Burt's amendment.

Council Member Scharff: Then I need to see if I get a second.

Council Member Berman: I'll second it.

Mayor Holman: Council Member Scharff has moved Council Member Burt's amendment.

Council Member Scharff: I agree with Council Member Burt; we can give him credit. Happy to do that.

AMENDMENT TO THE SUBSTITUTE MOTION: Council Member Scharff moved, seconded by Council Member Berman to replace in the Substitute Motion, "received project approval" with "were submitted in 2013 or 2014 and complete."

Council Member Filseth: What is the status of 429 University? Is that approved or not? We sent it back but ... 425, sorry.

Ms. Gitelman: That was considered by the Council and it was not approved. The application was complete but not approved.

Council Member Wolbach: Procedurally it made sense to vote on Holman's substitute motion, defeat it and then go back to accept the amendment. That way Burt gets his credit.

Mayor Holman: I'm going to make one last pitch. I'm going to parrot Council Member Filseth on this. If we do what is the amendment that's before us now, which I don't accept by the way, so it's a separate amendment. We're approving the better part of 120,000 square feet in the California Avenue area. We're approving, again to parrot Council Member Filseth on this, more than twice what our annual cap is. I don't see the point. I will not be supporting the amendment that is proposed.

Council Member Burt: This amendment is not what I had proposed. If you read above, I had recommended everything that had been applied for in 2013 or '14 and which the application is complete. You've taken it all the way up ...

Council Member Scharff: Put that back in. (inaudible)

Mayor Holman: It was supposed to be the same thing.

Council Member Burt: The language that was—yes, that's the language we're considering. (inaudible) No, that the application was submitted in 2013 or '14 and is now complete. On the impact of that, we have about 44,000 square feet of projects that, if I read it right, would be in that category. The Research Park things are excluded either way. That's a reasonable number. These are projects that have been one to two years after they had applied, and the total impact would be less than our annual cap.

Council Member Kniss: You've convinced me. I'm ready to vote.

Mayor Holman: How could the impact be less than our annual cap?

Council Member Burt: They add up to about 44,000.

Mayor Holman: You're looking at 1, 2, 3, 4.

Council Member Burt: Wait just a second. I don't know what you mean by 1, 2, 3, 4.

Mayor Holman: The first four on the list.

Council Member Burt: No, because the application is incomplete on Numbers 3 and 4.

Mayor Holman: Director Gitelman indicated those two are complete.

Council Member Burt: Is that correct?

Ms. Gitelman: Yeah. If you remember this table was produced as of March 31st. I don't know the status of everything on this list, but I do know that 2747 Park and 3045 Park applications are complete currently.

Council Member Burt: Sorry. That's a big difference.

Mayor Holman: That changes the complexion. Even though the applications are complete, we don't have square footages assigned to 1450 Page Mill, 1050 Page Mill or 3877 El Camino.

Council Member Burt: The Page Mill ones are Research Park. We do have net square feet other—okay. Either way, they're Research Park. They're outside the (crosstalk). With that number, I'm afraid I cannot support it.

Mayor Holman: That's what Eric and I have been saying.

Council Member Burt: That was not clear to me. I missed that one. Bottom line is we can't resolve this tonight.

Council Member Wolbach: Where it says "is complete," if we change that to "was complete" and inserted a date to cover those two projects, 2747 and 3045, a week ago, a month ago, whatever a date was, would that find enough support that we could make a deal and move on?

Council Member Burt: I'd support that.

Mayor Holman: What is that date and how do we find that date?

Council Member Burt: Hillary, were you hearing what Cory said?

Council Member Wolbach: I don't know if it would get Scharff's support. It still might not get the votes.

Ms. Gitelman: Again, I would need to research the timing of all these applications and their completeness. The only thing I can say is as of March 31st, this table accurately reflected what was complete and what wasn't.

Council Member Wolbach: If we said March 31st, how would the maker and seconder feel about that?

Council Member Scharff: I'm very uncomfortable with the notion that we're now picking on two people and saying, "We've decided that we have too much and we're going to cut them back."

Council Member Burt: That's a no.

Council Member Scharff: Yeah, it's a no. If you take the 3045 Park Boulevard one, that was the one that we were going to put the fire station on.

Council Member Wolbach: I will offer that as an amendment.

Council Member Burt: Second.

Mayor Holman: You'll offer what as an amendment?

Council Member Wolbach: To change it to application was complete as of March 31, 2015.

INCORPORATED INTO THE SUBSTITUTE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to replace in the Substitute

Motion, "received project approval by July 1, 2015 or the effective date of the Ordinance" with "applied for in 2013 or 2014, which the applications were complete March 31, 2015, from the Development Cap; and for projects with applications complete June 15, 2015."

Council Member Kniss: Point of clarification if I might, Mayor Holman. That means that whatever reads on this sheet—if it's incomplete, it's incomplete and it's out of the mix.

Council Member Filseth: If I understand this right, if it's incomplete, it can still compete with the other projects to be part of the 50,000. It doesn't get exempted.

Council Member Kniss: We're reading right from this?

Mayor Holman: Yes, basically.

Council Member Scharff: I want to understand if it's okay to be arbitrary and capricious when we do this. How do we feel about that? I want to know if this is all right to do it this way. I also want to know is anyone interested in giving preference out of the next 50,000 to the people that have done this and that gets the criteria in there, because they've put it in there. I could live with that.

Mayor Holman: Then why have the competition?

Council Member Scharff: As one of the criteria, if you had your application into this, you'd get some points for that.

Council Member Wolbach: I'd be okay with that.

Council Member Scharff: I would make that as an amendment.

Mayor Holman: Council Member Burt, is that okay with you?

Council Member Burt: As one of the criteria, not a preference.

INCORPORATED INTO THE SUBSTITUTE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Substitute Motion, "as one of the criteria considered as part of the 50,000 square foot Development Cap" after "June 15, 2015."

Vice Mayor Schmid: Director Gitelman, could you take a look at the list that's on there and the motion and read off the ones that qualify? I'm having some trouble with the wording.

Ms. Gitelman: If I understand it, the intention is that the ordinance would not apply to applications that are shown as complete on this table, which would be 441 Page Mill Road, 2555 Park, 425-29 University and 3877 El Camino.

Council Member Filseth: 425 University, does that have to reapply?

Ms. Gitelman: Based on the Council's action, effectively they would have to reapply and another application wouldn't be complete, so it's moot. Of course, the applications that are listed here that are outside of the three areas wouldn't apply either.

Mayor Holman: We are ready to vote on the board, Council Members. We are moving to exempt projects applied for in 2013 or 2014 which applications were complete by March 31, 2015 and exempt those from the development cap. As one of the criteria considered as part of the 50,000 square foot cap ...

Council Member Wolbach: Scharff, you were making the motion, do you want to clarify what the language was that you were offering as an amendment?

Mayor Holman: It should be "and those projects whose applications were not complete as of that date."

Council Member Scharff: What I meant was those projects that were complete as of today's date. That's what I meant.

Mayor Holman: The projects that were complete as of today's date?

Council Member Scharff: Yes.

Council Member Wolbach: That was what I understood when I agreed to accept the amendment.

Mayor Holman: To make sure we're all clear on this. The motion is to exempt projects applied for in 2013 or 2014 which applications were complete March 31, 2015 from the development cap. For projects that the application was complete June 15 as one of the criteria considered as part of the 50,000 square foot cap—we know what we mean here, but it's not very poetic.

Council Member Wolbach: Is this an amendment or a separate motion?

Mayor Holman: It is an amendment. All those in favor, vote on the board please, or if you're opposed. That motion passes on a 7-1 vote with Vice Mayor Schmid voting no, Council Member DuBois not participating.

SUBSTITUTE MOTION AS AMENDED AMENDMENT PASSED: 7-1 Schmid no, DuBois not participating

Mayor Holman: I have one thing to add as a comment. Will Staff please monitor and report to Council as you see our unintended consequences, as you indicated earlier, popping up in other areas that are not covered by this ordinance. We need to go back to the beginning. We tentatively voted on some earlier things, and the first motion did not pass. We had stalemate.

Council Member Kniss: We'll do it again?

Mayor Holman: The first one, we didn't get anywhere, having to do with the boundaries. Does anybody want to confirm anything else? We had a pretty good majority vote on everything else. It's just this one. Unless I hear otherwise, it's just this one we need to address. This is the boundaries question. We had a motion and amendment in front of us. Shall we try to readdress one direction or the other here? Quickly. I'm going to put forward the amendment I offered earlier, which was to use the precise boundaries as outlined in the potential office/R&D cap boundaries as proposed by Staff. That is my motion. Previously seconded by Council Member Burt. Vice Mayor Schmid seconds this time. I apologize. I didn't hear you if you did.

MOTION: Mayor Holman moved, seconded by Vice Mayor Schmid to use the precise boundaries as outlined in the Potential Office/R&D Cap Boundaries as proposed by Staff.

Mayor Holman: Let us vote on the board. That fails on a 4-4 vote.

MOTION FAILED: 4-4 Berman, Kniss, Scharff, Wolbach no, DuBois not participating.

Council Member Wolbach: I'll put forward my original motion.

Council Member Berman: I'll second.

Mayor Holman: That was?

Council Member Wolbach: That's including the exemption for SOFA.

Mayor Holman: It's to use the precise boundaries as outlined in the potential office/R&D cap boundaries as proposed by Staff. The development

cap will not apply to office space approved as part of the coordinated area plan or specific plan with the exception of the SOFA II area plan. Staff will return with information pertaining to the impacts of excluding SOFA II.

MOTION: Council Member Wolbach moved, seconded by Council Member Scharff to use the precise boundaries as outlined in the Potential Office/R&D Cap Boundaries as proposed by Staff and; the Development Cap will not apply to Office Space approved as part of a Coordinated Area Plan or Specific Plan, with the exception of the South of Forest Area Coordinated Area Plan, Phase Two (SOFAII) and Staff will return with information pertaining to the impacts of excluding SOFAII from the Development Cap.

Council Member Wolbach: We spoke to it earlier in-depth. I still think it's just as important as I did then.

Council Member Scharff: I also think it's just as important as I did then.

Council Member Burt: Under this, if we were to get the Fry's site specific plan through in the next year, whatever office was in there would necessarily be exempted from the office cap. Outside of any additional discussion on whether it should, we'd be deciding that tonight, that that would be the case. That's why I support Council Member Holman's motion. It doesn't preclude from at a subsequent time making a deliberate, thoughtful decision on it.

Mayor Holman: Vote on the board please. That also does not pass.

MOTION FAILED: 4-4 Burt, Filseth, Holman, Schmid no, DuBois not participating

Mayor Holman: Director Gitelman, would you like to take this to the Planning Commission and get their recommendation?

Ms. Gitelman: Thank you, Mayor Holman. I would be happy to bring you a recommendation from the Planning and Transportation Commission at a later date.

Council Member Scharff: I don't think this defaults to going to the Planning and Transportation Commission. I would move that we continue this.

Council Member Kniss: Continue the item to a date uncertain?

Council Member Scharff: Yeah, continue the item to a date uncertain, and we can all think about it.

Council Member Kniss: I'll second that. We have to. We've got to do something.

MOTION: Council Member Scharff moved, seconded by Council Member Kniss to continue this Agenda Item to a date uncertain.

Council Member Scharff: If we have no solution on this, it doesn't go to the Planning and Transportation. We just don't get an office cap.

Council Member Filseth: Can I make a substitute motion?

Mayor Holman: Of course.

Council Member Filseth: I'm not sure exactly how to word this. I'd like to move that we do something similar to Council Member Wolbach's motion, but with the amendment that any coordinated area plan which allows office/R&D space subject to the criteria we've set, if we pass one of those, then the 50,000 square feet per year office cap will be reduced by that amount. If we say we're going to put some stuff in the Fry's location, that is automatically taken away from the 50,000 square feet. If we say we're going to do 10,000 square feet—it's a little tricky because it's over time. It would be reflected in the level of the office cap.

Mayor Holman: Looking for a second.

Council Member Wolbach: He's offering it as a friendly amendment.

Mayor Holman: You said it was a substitute motion.

Council Member Filseth: There's no motion on the floor.

Council Member Scharff: There's a motion on the floor.

Council Member Berman: It lost.

Council Member Filseth: I would offer it as a friendly amendment if there's a motion on the floor.

Council Member Scharff: I made a motion to continue to a date uncertain. Isn't that a motion? It was seconded by Council Member Kniss. That's a motion on the floor.

Mayor Holman: There is a motion on the floor which is to continue the item to a date uncertain. It is a substitute motion.

Council Member Wolbach: Council Member Filseth, if you offered as a substitute to the other motion on the floor, if you offered what I proposed earlier plus your changes, then that would be the substitute to the motion to continue.

Council Member Filseth: That's my intent. I look to the Mayor, what's the procedural way to do this?

Mayor Holman: I'm looking to see what it is. I'm not sure it's clear. I'm looking to the City Attorney. I'm not sure this is clear.

Molly Stump, City Attorney: There was a procedural motion to continue, and there was a new motion on the merits, on the substance. That is a substitute motion. You're looking for a second.

Mayor Holman: So far I do not see one.

Council Member Kniss: Could I do a clarification on this? It would seem as though you just cancel whatever it is out. That says any coordinated area plan is subject to the 50,000 square feet limitation. It just reads in a different direction.

Council Member Burt: (inaudible)

Mayor Holman: Council Member Burt is correct. Any coordinated area plan would be counted as part of the 50,000 square feet. Any extra or leftover square feet what be what's left over. Is there a second?

Council Member Wolbach: I'll second it if you'll consider a friendly amendment.

SUBSTITUTE MOTION: Council Member Filseth moved, seconded by Council Member Wolbach to use the precise boundaries as outlined in the Potential Office/R&D Cap Boundaries as proposed by Staff; and the Development Cap will not apply to Office Space approved as part of a Coordinated Area Plan or Specific Plan, with the exception of SOFAII. Staff will return with information pertaining to the impacts of excluding SOFAII from the Development Cap; and any coordinated area plan which allows net new square footage of Office/R&D Space, the 50,000 square foot Development Cap will be reduced by that amount.

Council Member Wolbach: I'll offer a friendly amendment. At the very end, change it to reduced by one-half of that amount. We don't ever have to approve a specific plan. The whole thing is specific plans will still come to the community, it'll come to the Council. We still have to approve them.

This is saying we don't ever have to approve a specific plan. The whole thing is specific plans will still come to the community, it'll come to the Council. We still have to approve them. This is saying that we're leaving open the opportunity to not tie our hands in advance.

AMENDMENT TO THE SUBSTITUTE MOTION: Council Member Wolbach moved, seconded by Council Member XX to add to the Substitute Motion, "half of" after "reduced by."

Mayor Holman: Council Member Filseth, do you accept that?

Council Member Filseth: I'm thinking about the ramifications of that. I understand where you're going. I'm not comfortable with that. I'm thinking about is there some way we leave this to Staff to come up with a recommendation on how much to reduce it. The thing that makes it complex is the time. Let's say there was only a one-year horizon, and there were two areas, Cal. Ave. and Downtown. It's a total of 50,000 square feet. We come up with a coordinated area plan for Cal. Ave. that says 25,000 square feet in Cal. Ave. It seems obvious to me that the Downtown area gets 25,000 square feet; otherwise, we've just raised the cap. Does that make sense?

Council Member Wolbach: Right. The point is ...

Council Member Filseth: The problem is that it's over time. We'll say the Cal. Ave. area we see a total of 125,000 square feet, but it's undetermined how much time it's over. How do we apply that to the annual cap? Does that make sense? If we said the Cal. Ave. gets 25,000 square feet per year, then it's easy. We reduce the annual cap somewhere else. We don't know that the coordinated area plan for the Cal. Ave. is going to say that. Am I over-complicating this? I'm trying not to raise the cap.

Council Member Wolbach: The point is that this is an exemption in the remote possibility that we agree on a specific plan in the next two years, which is unlikely anyway. I'm optimistic, but it's still unlikely.

Council Member Filseth: I'm hopeful we'll get there on Cal. Ave. That should be a priority.

Mayor Holman: Do you accept the amendment or not?

Council Member Filseth: I think not.

AMENDMENT TO THE SUBSTITUTE MOTION FAILED DUE TO THE LACK OF A SECOND

Council Member Wolbach: Do you have a counterproposal that would help us move on?

Mayor Holman: The motion that he put forward.

Council Member Filseth: Can I suggest an alternate to that? Reduced by that amount, adjusted to compensate for timeframes involved.

AMENDMENT TO THE SUBSTITUTE MOTION: Council Member Filseth moved, seconded by Council Member XX to adjust to compensate for timeframes involved.

Council Member Wolbach: I'm not clear what that means. I'm interested, but I'm not clear.

Council Member Filseth: It means that ...

Mayor Holman: We need to move along. It's not clear and we need to.

Council Member Wolbach: We might be able to make a deal here. I'd like to hear what Council Member Filseth has to say on this one.

Council Member Filseth: I don't want to raise the annual cap, but I do want to be able to say once we do a coordinated area plan, that's its own plan. The cap exists now for the other areas. I don't want to bake in that we're going to raise the cap when that happens.

Council Member Wolbach: What if we made an exemption for a coordinated area plan for Cal. Ave.?

Mayor Holman: Fry's isn't Cal. Ave.

Council Member Filseth: I want to hear what Council Member Burt has to say.

Council Member Burt: You guys are not on the same wavelength.

Mayor Holman: Hang on a second. We have to take off "adjusted to compensate for timeframes involved," because the seconder did not accept it.

AMENDMENT TO THE SUBSTITUTE MOTION FAILED DUE TO THE LACK OF A SECOND

Council Member Burt: You guys are horse trading and you aren't in agreement in principle. Council Member Filseth has moved this a bit in the

direction that some of the others wanted, probably not as far as opponents. Trying to do this involved horse trade tonight over the outcome of the Fry's plan goes back to the point I'm making. We don't know what that's going to be. We can address that when we come to it.

Council Member Filseth: How are we going to resolve this?

Council Member Burt: I'm supporting your motion. Let's see whether anybody else does.

Mayor Holman: The motion is to use the precise boundaries as outlined in the potential office/R&D cap boundaries as proposed by Staff, and the development cap will not apply to office space approved as part of a coordinated area plan or a specific plan with the exception of the South of Forest Area plan and Staff will return with information pertaining to the impacts of excluding SOFA II. Any coordinated area plan which allows office/R&D space, the 50,000 square foot development cap will be reduced by that amount. Vote on the board please. That also fails on a 4-4.

SUBSTITUTE MOTION FAILED: 4-4 Berman, Scharff, Holman, Kniss no, DuBois not participating

Council Member Burt: I have a motion.

Council Member Kniss: How about continuing this?

Mayor Holman: I was going to refer this to Planning and Transportation Commission which is what the Director wanted to do.

Council Member Burt: I thought the prior motion to continue was for everything. I would move that we vote on everything except this aspect.

Mayor Holman: I asked earlier if anything needed to be reconsidered except for what didn't pass with a large majority before. No one said we needed to vote on anything else.

Council Member Burt: You think it's already been voted on.

Mayor Holman: Yes. All we needed to consider was this first piece. I will move that we refer the boundaries of the office/R&D cap to Planning and Transportation Commission. Looking for a second.

Council Member Scharff: I want to know if it's coming back to us or is it (crosstalk).

Mayor Holman: Of course, it will.

Council Member Scharff: If it just goes to them (inaudible).

Mayor Holman: It'll go to them and it has to come back to us.

Council Member Kniss: Second.

SUBSTITUTE MOTION: Mayor Holman moved, seconded by Council Member Kniss to refer the Office/R&D Cap boundaries to the Planning and Transportation Commission.

Mayor Holman: The motion, seconded by Council Member Kniss, is to refer the office/R&D cap boundaries to the Planning and Transportation Commission. Vote on the board please. That passes on a 5-3 vote with Council Members Berman, Scharff and Filseth voting no, Council Member DuBois not participating.

SUBSTITUTE MOTION PASSED: 5-3 Berman, Scharff, Filseth no, DuBois not participating

16. PUBLIC HEARING: Adoption of an Ordinance 5330 Entitled, "Ordinance of the Council of the City of Palo Alto Extending for 22 Months and 15 Days Urgency Interim Ordinance 5325, Placing a Temporary Moratorium on the Conversion of Ground Floor Retail and "Retail Like" Uses to Other Uses Citywide; Exempt from the California Environmental Quality Act Under Section 15061 and 15308."

Molly Stump, City Attorney: Mayor Holman, City Attorney Molly Stump. We do not have a presentation. This is identical to the Urgency Ordinance Council already adopted. According to the procedures in State law, it lasts only for 45 days. This would be a second Emergency Urgency Ordinance that would extend the retail protection for the balance of the period and allow time for the Comprehensive Plan and additional planning work to be done. It is identical to what the Council has already done. It does require eight votes to pass.

Council Member Kniss: I would move approval of this.

Mayor Holman: Does everyone know? We are moving to extend the Urgency Ordinance that we have already voted to approve.

Council Member Scharff: I'll second it.

MOTION: Council Member Kniss moved, seconded by Council Member Scharff to adopt an Ordinance extending the Urgency Interim Ordinance placing a moratorium on the conversion of ground floor retail and retail-like uses to other uses citywide.

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Public Hearing opened and closed without public comment at 10:33 P.M.

Mayor Holman: Vote on the board please. That passes on a 9-0 vote.

MOTION PASSED: 9-0

17. PUBLIC HEARING: Approval of a Mitigated Negative Declaration and a Site & Design Review and Design Enhancement Exception Application for a Three Story Mixed-Use Building on a 27,000 Square Foot Site Zoned Service Commercial (CS) At 441 Page Mill Road. The Project Has Been Revised to Contain 19,093 Square Feet of Commercial Space, 91 Off-Street Parking Spaces, and 16 Apartment Units, Including Five Below Market Rate Units, and Includes a Request for Three "Off Menu" Concessions Under Palo Alto Municipal Code Section 18.15 and the State Density Bonus Law and Based on a Revised Economic Analysis Environmental Assessment: A Mitigated Negative Declaration was Prepared.

Hillary Gitelman, Planning and Community Environment Director: Council Members, Hillary Gitelman, the Planning Director. I'm joined by Russ Reich of our Staff and Reed Kawahara of Kaiser Marston Associates, our consultant on this project. If you recall from our review of this project back in January, we have an unusual situation here. Not a situation any of us would like to be in. There is a State mandate related to density bonuses for below market rate housing. That State mandate includes a provision that requires local agencies to approve concessions under certain circumstances. circumstances exist with this project. We have articulated in the Staff Report the precise findings that would have to be made in order to deny the concessions or the project. We also wanted to acknowledge that the Council Members had a far-ranging discussion on this item the first time it came. There have been some project changes which Russ is going to describe. There are also changes in methodology and investigation requested, which all of us, Reed included, will help describe. This evening you'll hear a quick Staff presentation, a guick presentation from Reed. Then we'll hear from the public comment, followed by Council Member questions, applicant, comments. We hope we'll get your action this evening.

Russ Reich, Senior Planner: Good evening. Thank you, Mayor Holman and Council Members. The project before you this evening is for a new three-story, 35-foot tall mixed-use building. The building would contain 35,249 square feet. It would have retail, office and residential uses in the project. There would be a total of 16 residential units, five of which would be below market rate units. The project includes three State density bonus concessions for lot coverage, commercial FAR and total FAR. The project

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would be site and design review as well as two DEEs. One DEE to give a 3foot alleviation from the build-to line, allowing the building to be 3 feet further away from the street. The other would be a 3-foot encroachment into the 10-foot landscape buffer at the rear of the building. The project also includes a Mitigated Negative Declaration. The basic issue in the environmental review was the fact that this site is located over the California-Olive-Emerson groundwater plume. There are some mitigations related to making sure that the vapors don't intrude and migrate into the building. Just a little overview and reminder of the context that the property The red rectangle there represents the project site. is located within. You've got the Kelly-Moore Paint Store to the left of the project and the pet hospital to the right, single-family residential units to the rear. Across the street there are larger two and three-story multifamily projects, the fourstory Sunrise Assisted Living. This image shows the four residential properties that exist on the site. This is an elevation of the proposed street elevation along Page Mill. You can see the Kelly-Moore Paint Store just to the left. This is the proposed rear elevation of the site. This is where one of the main changes to the project has occurred. They've added six additional residential units from the last time that you saw it. On the second floor on the left side, you can see the recesses. Those are now residential units on that side with balconies on the rear of the project. There was some programmatic changes that have occurred since the last time that you saw the project. Previously there was 13,979 square feet of residential square footage. That has increased to 16,156 for a total increase of 2,177 square feet of residential square footage. There's been a reduction in the amount of office square footage in the project. It went from 18,704 down to 15,843. This is a reduction of 2,861 square feet. The retail square footage has been increased by 414 square feet. The total square footage in the project has been reduced by 270 square feet. There are four additional market rate dwelling units and two additional BMRs. There's a total of five BMRs in the project now, and a total of 16 dwelling units; whereas, the prior project had only ten. With that, I will turn it over to Reed to give his portion of the presentation.

Reed Kawahara, Kaiser Marston Associates: Good evening, Reed Kawahara from Kaiser Marston Associates. The PowerPoint that I have is very similar to the one I gave last January. I'll get through it as quickly as I can. In terms of what we've done since our analysis from January, first, we have updated all of the economic analysis from last time. We updated for improved market conditions, increased rents that have occurred since last year. We've also updated construction costs which are also up, and cap rates and so forth. It's a complete update of market conditions. At the Council's request from January, we also added a couple of different approaches to the initial analysis that we had done. The first was to analyze

the cost of the BMR units based on a rent differential approach, which I'll explain shortly. Secondly, we analyzed the incremental value of the project as compared to the CS zoning alternative based on a discounted cash flow approach, which was also requested in January. Finally, we incorporated the changes to the project as Russ described. We've covered this before. The State density bonus provides for incentives or concessions, three specifically, if a certain percentage of units are provided as low income. The basis for denying those requested incentives or concessions is based on substantial evidence that the concessions are not required to provide for the affordable housing cost. That's language from the State Density Bonus Law. This slide is a comparison of what's permitted under CS zoning as compared to the proposed project. We pretty much covered what's being proposed as compared to what's permitted. I'll move on from here. Then we compared the proposed project with an alternative under CS zoning that we had, in our estimation, determined to be the most economically beneficial under a CS zoning alternative. That in summary is a project that's about a .78 FAR. It's slightly less than what's permitted under CS zoning, the 1 FAR. again, due to the fact that the subterranean parking is so expensive. We believe that this is the project that would be the most economically beneficial to build. Quantifying the affordable housing costs or the BMR costs. Again, two different approaches that were utilized. The first was what we call the development cost approach. This was our initial approach based on an allocation of costs of the project, including construction costs, indirect costs and so forth of the project. On that basis we estimate a \$2.16 million cost for those five BMR units. We take the income from those BMR units, estimate the value of those and subtract that to come up with a net cost of \$1.51 million. The second approach that was requested by the Council in January was the rent differential approach. We've compared a theoretical all market rate project with the project with the five BMR units. That rent differential is \$0.15 million. Then we capitalize that to come up with a net cost of the BMR units of \$3.26 million. That second approach pretty significantly increased the cost of the BMR units under that approach. As I said, we compared the incremental value of the proposed project as compared to the CS zoning alternative, again, under two different approaches. The first is the original approach that we utilized, which utilized market rate cap rates to estimate the value of each of the elements of the project, the residential, the office, and the retail, separately to come up with a gross value of \$8.86 million, from which we deduct the incremental cost of development in large part attributable to the underground parking to arrive at a net value increment of about \$560,000. The second approach that was requested by Council was the discounted cash flow approach, which runs out the operating income from the project for an extended period of time, applies net present value discount rates to bring those values back to present value. On that basis, the gross value increment is estimated at

\$9.54 million. Again deducting the incremental development costs of \$8.3 arrives at a net value increment with that approach at \$1.24 million. Utilizing the various approaches that I just described, the affordable housing or BMR cost is estimated between \$1.51 million to \$3.26 million. The incremental value from the three requested concessions is estimated at \$0.56 million to \$1.24 million. On the basis of the fact that the BMR costs exceed the incremental value in each case, we have come to the conclusion that all three of the off-menu concessions being requested are needed to address the affordable housing costs.

Mayor Holman: We have the applicant, who gets to make a presentation. I don't know who's going to be representing the applicant. Applicant will have ten minutes to make your presentation.

Public Hearing opened at 10:46 P.M.

Alena Campagna, Stoeker and Northway Architects: Good evening Madam Mayor and Honorable Council Members. I am Alena Campagna, John Northway's partner at Stoeker Northway Architects. He unfortunately had a scheduled vacation and could not be here this evening. We truly listened to the concerns that you expressed at our first meeting on January 26th. This revised project represents our best efforts to address those concerns. Since you're very familiar with the project, I'm going to limit my presentation to what has changed since you last saw it. This is the existing site. Just a quick reminder of what the existing site is, four rundown houses between Kelly-Moore and the animal doctors. Here's our rendering. The building still looks exactly the same from the front. We revised the composition of spaces and uses inside the building. The biggest change is that we added three units of residential to the rear of the second floor. Here are the specific changes per your request. You were in favor of retail, so we reduced the office and increased the retail space by over 400 square feet. You wanted less office, so we decreased the office tenant space by almost 3,700 square feet. You wanted more residential, so we reduced the office and increased the residential FAR by over 2,100 square feet to the maximum allowed by Palo Alto zoning. We added six residential units, increased from ten to sixteen total rental units. We did this by removing all three-bedroom units, which added three units on the third floor, and by replacing office space with three units on the second floor. We now have one studio, five one-bed and ten two-bed units. We also added two affordable housing units. We now have a total of five affordable housing units. They are two one-bed units and three two-bed units. All of these changes decreased the building size by 270 square feet. We also added six more bike lockers for a total of 52 overall bike spaces. Parking. Because the office space was reduced, the peak parking demand went down to 75 spaces and the

recommended number, which is 10 percent over the peak, went down to 83 spaces. We are still providing 91 undesignated spaces. When we designed this building, we could have fully parked it, but we choose not to, because the traffic engineer's parking study showed that our 91 spaces were more than enough for the shared uses. Again, 83 is the recommended number. Using Palo Alto's Zoning Ordinance shared parking section meant a TDM was required. We strongly felt that at this site, so close to transit and near one of the worst intersections in town, that getting people especially office workers not to bring their cars in the first place was the most important Instead of paying to construct even more parking solution for this site. spaces, we felt a TDM, giving all tenants free transit passes for the lifetime of the building was the best solution for this site. TDMs also require a yearly review, so there is a mechanism where it can be adjusted if needed in the future. We are also providing 52 bike parking spaces, well over the 27 required, to further get people out of their cars. Last but not least, we preferred not to dig deeper and hit the contaminated groundwater plume. The current one level of underground parking stays above it. The parking that is being provided is in conformance with Palo Alto's ordinance for mixed-use buildings. We'll go through the building design changes. Again, there is no change to the front elevation. Here on the first floor, we increased the retail by moving the shower to the second floor and stealing space from the parking garage. The second floor is where most of the changes occurred. You can see in the rear corner we took away office and put in three residential units with private decks. The corridor required to get to those units split up the previous single, large office tenant space into two much smaller tenant spaces. We also moved the shower to this floor. Third floor, we're still creating a community. When we removed the three-bed units, that added one unit up front and also added two units along the back. The added units created more articulation and alternative color changes along our internal street and along the rear elevation. Here's the design visually. The new design on the north corner, all we did was add a deck overlooking Kelly-Moore. On the south corner, there were some minor changes on the second floor, where we added a residence, just minor changes to the window. The rear elevation is where most of the changes occurred. Again, you can see a chunk was taken out of the corner of the building as we added residences and their private decks on the second floor. Adding units on the third floor also added color and articulation and changed the windows and wall locations and, consequently, also changed the walls on the lower floors as the lines that we created on the third floor translate down to the ground. Here on the third floor in our courtyard, again we've still created that sense of community, giving people some outdoor space that's on the level of where their units are as opposed to having to go three stories down to the ground. Adding those extra units created more articulation and color change along the interior of the courtyard and the street. We hope

that the revisions we have made have addressed the concerns that you had. We have been in the process for over two years, and we respectfully request that you approve our project this evening. Norm Schwab, the owner, Leigh Prince, his counsel and expert on the State Density Bonus Law, and I are available to answer any future questions, as well as our traffic engineer, Richard Hopper.

Bob Moss: Thank you, Mayor Holman. This project has two problems that I'm sure you've heard of before, traffic and parking. The increase in the size of the building and the addition of, I estimate, about 100 to 120 workers, is going to create significant traffic impacts. Having an increase of 12 housing units, even if some of the workers take transit, I estimate between 275 and 300 additional trips per day. That's not factored into the Staff Report or the analysis. One of the things that I found rather strange, the Staff Report packet page 952, they're talking about parking. They're suggesting that we can have overflow parking, that we can meet the demand by parking on Ash or on Page Mill. I don't recall any project in the last 40 years where street parking has been given as an excuse for under-parking on the site. When Naph Knox was Director of Planning, he explicitly said that parking had to be provided on the site, and you didn't count public parking on public streets as part of your required parking spaces. We have a parking problem, and we have a traffic problem at the most congested intersection in town. suggestion for alleviating most of this would be to add two more apartments on the second floor, converting some of the office space to apartment space. That would reduce the number of workers by 12 to 18. It would reduce the number of required parking spaces and would require onsite parking which could be met with the parking which has been proposed. My suggestion is to convert at least 2,000 square feet of office space to residential. If that doesn't work, then I suggest you reduce the size of the building, especially the office space by 2,000 to 3,000 square feet.

William Ross: Good evening, William Ross, taxpayer and resident. You cannot have project approval without a valid environmental analysis under CEQA. I will follow the recent analysis in a case called Keep our Mountains Quiet v. County of Santa Clara, which interestingly affirms the decision of a former colleague of yours, Judge Joe Huber, concerning the inadequacies of a Mitigated Negative Declaration. Starting with the check list and going down. I will incorporate by reference, raising a procedural issue about limitation of time, my remarks in the case on 2555 Park Boulevard as to the inadequacy of cumulative assessments with respect to both traffic and water. Nonetheless, going to that check list, I again reference Section P-3 under utilities. Notwithstanding 18 months passage of time, an addendum that's recent as of last month. There's no mention of the water situation in this state. More critically, no mention of your initiation and revitalization

after six years of the recycled water project in this City with the release of your draft Environmental Impact Report in late April 2015. relationship between potable water and recycled water and the impact that each is supposed to have on the other's use. There's no substantial evidence to support that provision. I would also suggest consistent with the case I mentioned, based on personal knowledge, four out of five days every working week for the last ten months, I go either out Page Mill from El Camino to 280 or Page Mill/Oregon to 101. The delays are extensive. That's based on my personal knowledge. There's not an adequate analysis of that delay, emergency access, much less construction impacts, temporary and permanent, under CEQA Guideline Section 15.6.4(c) in this analysis. Fair argument can be made that an environmental impact review is needed on water, transportation and traffic. With respect to the allegations about delay sometimes being 10 to 20 minutes to go to either thoroughfare from 1:30 to 4:30 on, that is precisely the type of traffic analysis that was validated based on personal knowledge in the case I mentioned. How many times do we have to raise by personal knowledge my experience, Terry Shuckett's experience, a letter from some resident, before Staff recognizes that as a valid method to analyze traffic? Once again, it's not present in the record, and I suggest on that basis alone, particularly when you put in construction traffic, think of the projects that are going now, think of the projects that are in the pipeline. It's jammed up now at that intersection.

Louis Luh: I have two concerns. One is the calculation for parking. Right now the calculation assumes shared parking, assumes residents also only park during the night and tenants only park during the day. This is never the case. The residents always want to have dedicated parking or assigned parking. They believe the shared parking can work. They need to show some way to enforce the shared parking. Ask the residents to remove their cars by 8:00 in the morning and ask the office tenant to leave the work, no overtime, by 5:00 p.m. That way they can actually share. Otherwise, they have to calculate based on no share. For all locations I see, all residential parking need to be dedicated. Nobody will accept shared parking. Another problem I see is the entrance for the parking only 20 feet wide for both enter and leave. If one car is about to leave, another car want to drive in, there's only 20 feet wide. You need to make a wide turn into the parking. If there's a car wanting to leave, it's impossible to do this. That car waiting to go into the garage will block your view. This will cause the congestion on I would suggest to have the entrance and the exit to be two different place. Entrance on this side and exit on that side, so the entrance will not block the exit and the view will not be blocked by the entrance car.

Jason Robinson: Good evening. I'm also going to talk about the parking and traffic congestion as well. It appeared to me in the analysis we saw

earlier that every number had been updated except for this 250 square feet per employee number. A quick internet search suggests that that is a very average number for some average city in some average state. I don't think Palo Alto is an average city. We have a lot of tech; I work in tech. We sit similar to this; we have computer, computer, computer, person, person, person. You don't have an expanse of 250 square feet or whatever. I would request that we look at that a little bit deeper. Right now we're looking at a number of 106 required parking spaces with that number. We're getting 91. If you use 150 square feet per employee or 100, it's looking more like 154 spaces or even 218. I would request that we find out where that number comes from and dig into it a little bit deeper. Since I only have a few minutes, I'm going to move rather quickly to another piece. In terms of the community dealing with the problem of parking, I would like to request an RPP. We've discussed it several times. I've been going to these meetings Based on the overflow that we're certainly going to have, Pepper and Olive would be great candidates to be part of the RPP. appreciate your time.

Joe Wu: Good evening. I'm a new resident. I just moved in a year. I want to echo what a couple of my neighbors, they're concerned about the traffic. Every morning I get off to Page Mill to commute to work. On the left side which is the paint shop, if there's a car parked in there, I feel it's very unsafe to turn, because the traffic's a lot. It's a major intersection, a lot of traffic there. The other concern is with the big size of the building. That means a lot of people will need to get on the Page Mill for their commute as well. It's not just convenient to get on Page Mill. They also will have some safety concern. The other thing is the parking. Currently, I feel like every evening the neighborhood has been prepackaged, like all the streets have been filled up with cars. With the building's plan to use the public parking to meet the requirement to have parking space, it won't work. It's adding too much clog into the parking.

Chris Donlay: Good evening. I have brightly colored handouts to help keep you awake at this hour. My name is Chris Donlay, and I live on Pepper Avenue, directly behind 441 Page Mill. I'm also the Ventura neighborhood franchisee of the Neilsen Buchanan parking survey system. I decided to bring you some actual data from the department about what street parking looks like in our neighborhood on an average day. Our most recent survey, May 13th at noon, to give you an idea of what it looks like during the day. I didn't have time to bring you average data. We've been doing this survey for a year and a half. This day is pretty average for the past three months. This is not unusual. I don't have time to go through all of the data. What you can see is that there's a lot of red which means 100 percent or higher parking; a lot of orange which means greater than 80 percent which means

fully saturated; only a few blocks that are less than that. What I can tell you is based on these data, we are 20 cars short of being completely red today. This does not take into account the 15 spaces that will be disappearing on Page Mill when the County takes away those spaces. That leaves us with five remaining spaces of street parking. We're a parking lot. We're already there. This also does not take into account the impact of 441, and there will be impact, the impact of all projects on Park Boulevard, 195 which is halfway done and the others that are in the pipeline you've already discussed today. At the moment, we do have a little bit of a safety valve, because the former VTA lot still functions a lot and gets 20 to 25 cars every When that goes away, I don't know what the color is above red. Neilsen and I haven't discussed that, but we will be there. You need to understand the context in which you're making these decisions. There will be impact from 441. As Jason just discussed, the ratio is all off and you know that. Even so, at the time that we had more than 100 percent parking in our neighborhood, business parking lots were not full. Just because there was parking there does not mean that people use them. We will definitely have spillover onto our streets from 441. If you approve 441 as currently formulated for parking, which is a mistake, than I insist that you approve two other mitigating actions to help our neighborhood. One, you mandate that all tenants of 441, both business and residential, only park in 441. If you're so convinced there's enough parking, that should not be a problem. I understand that the developer is not adverse to some sort of parking program. Secondly, as Jason said, you establish an RPP zone including all of Pepper and Ash to stand by its own, and you direct the Planning Department to put that RPP Program on the fast track beginning tomorrow. already been discussing this in our neighborhood. We are happy to work with you to make that happen quickly.

Good evening, Mayor and City Council. Doria Summa: Doria Summa, College Terrace. I'd like to acknowledge that there have been improvements to this project. It's a handsome project, but I still have a lot of concerns. I share the concerns about parking and especially traffic. I live very close to that intersection, and I have experienced it. I'm also concerned about loading requirements for this building. Section 18.52.040 of the Municipal Code addresses minimum off-street loading requirements in new buildings. Table 3 of this section appears to require two off-street loading spaces based on the commercial square footage of 441 Page Mill Road. The location on Page Mill Road expressway and the fact that there will no longer be any parking on Page Mill, combined with the low access to off-street parking for this site, makes it particularly hard for this building to be accessible to vans and trucks. I didn't see any discussion regarding onsite loading spaces in the Staff Report. I was wondering if it would be a good idea to do so. The other option that's been mentioned is having loading on Ash Street, which

does not abut 441 Page Mill Road. Of course, Ash Street needs to provide parking and loading for Ash Street and probably now for the other businesses on Page Mill Road that will be losing the on-street parking there.

Mayor Holman and Council Members. You provided this Herb Borock: applicant a windfall profit when you rezoned the property from R-1 to CS. Rather than being grateful and accepting that, the applicant wants more. Perhaps the simplest thing to do is to reverse your action and rezone it back to R-1. I don't believe there should be any parking reduction for the two uses. If this is a project where the residents are going to be using the train, they will still need cars for other uses than their commute. They will leave those cars at the project during the workday. There won't be places for the There's already a reduction in the parking for the employees to park. residential units due to the State Density Bonus Law. There should not be a Design Enhancement Exception along the Page Mill frontage for planting trees. The applicant should be required to plant trees and, if necessary to make those trees survive, pay to move the utilities. There is no justification in the Zoning Code for a Design Enhancement Exception because it costs too much to do something, which is essentially what Staff says about moving the utilities. The history of the project is that the preliminary ARB hearing was held for a project about the same time that Staff was making its original recommendations to the Planning Commission for the concessions in the State Density Bonus Law. The applicant stated at the ARB preliminary hearing that they were designing a project to meet those concessions. Those weren't concessions that were adopted by the City Council. applicant has spent all this time until the Council finally adopted its implementation ordinance designing a project for something the Council had not adopted yet. In terms of floor area ratio, which are the concessions that are being used, the total square footage allowed was up to the BMR unit square footage which is 4,670 square feet. None of it under the Council's adopted ordinance could apply to the commercial zoning. The total square footage is almost double in the proposal. In terms of calculating the applicant's cost of the BMR units, the appropriate way to do it is to do it the way the BMR program was originally set up. The for-profit project stood on its own, and the BMR units were something in addition. The prices of those were set at the cost to cover the direct construction costs of those additional BMR units. When you make that analysis, there's no reason to adopt the project in its current form.

Lydia Kou: Good evening, Mayor Holman and Council Members. To the applicant, thank you for including residential units in this project. It's very much appreciated. However, this development causes traffic and parking concerns, in particular the negative impacts that it will cause to the Ventura neighborhoods and even to the Mayfield neighborhoods. The development's

garage egress and ingress is onto Page Mill at a block which is close to an intersection with massive congestion, that's Page Mill and El Camino Real. At this point, we do see bottlenecks during the morning where cars are stuck waiting for other cars to enter into these driveways. The development's residents and tenants, when exiting the garage, can only turn right onto Page Mill, which indicates to me that those wanting to head towards the 280 or even going south on El Camino will intrude into the neighborhoods, in particular, looking for streets that have traffic lights such as California and Margarita, both bicycle boulevards. Further, the traffic report by RKH only reviewed three intersections, but have not taken into consideration vehicle traffic exiting and entering from and into the other businesses along that block on Page Mill. Even now there's gridlock as they come to almost a stop when they're turning into the driveways. Another matter is loading and unloading for deliveries to the retail and offices. Will this be on Page Mill? Downtown is a perfect example. While it can be said that Downtown streets were developed way back, this is a new development. A matter such as delivery loading and unloading should be strategically planned. The City needs to resolve cumulative impacts before continuing to approve building projects. Please stop impacting the neighborhoods.

Jeff Levinsky: Good evening, Mayor Holman and City Council Members. I looked in particular at the concessions and whether all of those are needed. The big question, and it's in the Staff Report, is if the value of the concessions exceed the cost of the BMR housing units, one or more of the concessions may not be required. That's the State law. This is from page 8 of the KMA report. You'll notice it says that the incremental value of the concessions is \$560,000 at the bottom right. This table appears to include the reduced rents that is the cost of the BMRs. First of all, the \$10,483,000 number reflects the reduced rents from the BMRs; that comes from elsewhere in the Staff Report. Also, the full construction costs appear to be in this table as well. That includes the cost of building the BMRs. Those are the two basic costs of the BMRs. They're in here which means that that \$560,000 number shows that there's a profit to the developer from adding the BMRs. Again, the question was do the value of the concessions exceed the cost of the BMRs. The answer is yes, they do. They exceed it by \$560,000. That means that some of the concessions may not be needed. The report states the opposite. On page 12 it claims the BMRs cost more, but that's because it's comparing the cost of the BMRs with a cost that it already subtracted those from. It basically is double counting the costs of the BMRs. If you double cost account, things look very different. That's the source of the confusion. Another problem in the report is that it uses a 5 percent vacancy rate for the BMR units. If that were true, it would be an utter shame, an utter disaster for our City. We talked with the Palo Alto Housing Corporation today. They say the vacancy rate is less than 1 percent

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for these kinds of units. That makes sense. There's a huge waiting list; why would there be any vacancies at all? They have tenants who want to move in, and tenants are going to stay a long time because the rent is so low. The report has other problems. It ignores that the BMRs are charged lower property tax. Property taxes for rental apartments are based on the income from the property. If you have lower rents, you should have lower property taxes. That's not in the model. It ignores that the BMRs expire eventually. They use estimated cap rates like 4 1/2 percent, but the model is very sensitive to those rates. It uses 4 1/2, 5 1/2 and 6 1/2. Those are too coarse numbers to be useful in this way. The State law offers us an alternative to this project. It says that you can reduce the concessions as long as the BMR costs are covered. I included in an email to you today that if you remove 500 square feet of the office—I'm done. You have my notes.

Rita Vrhel: It's always so interesting to come to these meetings and listen to what everybody has to say. What I was going to say has already been mentioned by a few people. What I heard tonight and when I was here the other month when this was being discussed was that part of the large cost of the project is due to the underground parking. I'm not sure that the cost of the underground parking is related to the cost of the below market residences. It seems like, just like last time, during their presentation a lot of the costs of the BMRs was not fully supported by the documents or the data that was presented. Maybe Mr. Borock answered that question. What is the square footage of the five BMR units in total and how does that compare to the square footage of the entire project? It seems that this project is so huge for the very sensitive location. I don't think I need to bring up the parking and the traffic again. We all know what that is like. I would ask that you ask the owners to make major changes.

Leigh Prince, Applicant Attorney: Good evening. My name is Leigh Prince. I am an attorney at Jorgenson, Siegel, McClure and Flegel. I do a lot of work in land use, specifically with the State Density Bonus Law as well as in CEQA analysis. I want to touch on a couple of things that were raised. What I want to point you to is this is a complicated project. This is a complicated situation for you. I'm not in your chair, and I'm not sure I would want to be tonight. I do want to point out that you have experts who have looked at the issues of traffic and parking. You have an analysis that was done based on Zoning Code requirements for parking, that looks at all the appropriate rates. You have expert analysis that says this is adequately parked, and this won't cause significant traffic impacts. We all experience bad traffic. This is the Peninsula, but you do have that expert report in your packet. I also want to point to you the economic analysis that was done. There were four different methods that Reed described this evening. In each of those he came to the conclusion as your expert that these incentives and concessions

were needed in order to make the affordable housing in this project pencil. With respect to the street trees, I might defer to Alena. I know there was a lot of interaction between the County and the City on the placement of those street trees. With that, I will turn it over. That covers the majority of the comments. I think somebody said that the Staff Report says there will be overflow parking. I believe it says, in the clause that prefaces that, that there is adequate parking onsite. I wanted to highlight that as well.

Ms. Campagna: Alena Campagna from Stoeker Northway. About the DEE, the County does not allow street trees in their right-of-way at all. In fact, they allow almost nothing except for sidewalk and plants that are 2 feet tall. We've gone back and forth with them. The City was very insistent that they wanted street trees in the project. The only place that we could put them was on our site. That's why we moved the building back 3 feet. Because of the underground garage, we had to go back 3 feet for the trees to take root on our site.

Public Hearing closed at 11:26 P.M.

Mayor Holman: Let's combine questions and comments.

Ms. Gitelman: Mayor Holman, if you wouldn't mind, there are a couple of statements made in public comment that I'd like to correct. The applicant's representative spoke to one of them. There was a suggestion by several speakers that somehow the parking was not met onsite and the overflow parking needed to be met on City streets. That's not the conclusion of our The conclusion of the analysis is that parking onsite will be sufficient to meet the peak demand. Another speaker talked about the way that the parking demand is calculated and said we had assumed that all of the office parking is there during the day but none of the residents are there during the day, and they do a total swap. That's not consistent with the analysis that we provided. We calculated different times of the day and night how many spaces would be serving each of the uses. In addition, one of the speakers talked about the justification for the DEE being that it cost too much. I would note that the DEE is to achieve a wider setback. It's something that the City benefits from having a greater setback at the front of the project. It results in pushing the building back on the site. I'm also hoping that the Council will let the applicant address the loading space question and let Reed address the questions raised by Mr. Levinsky on the analysis either now or at some time during your questions.

Molly Stump, City Attorney: Mayor Holman, if I may. Could you ask Council Members to make disclosures?

Mayor Holman: Yes, thank you so much. This is a guasi judicial item.

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Council Member Scharff: I met with two of the architects for the applicant. I didn't learn anything that's not in the public record.

Vice Mayor Schmid: I met with Levinsky and Summa and discussed what they brought up on the economic analysis.

Council Member DuBois: I also met with Levinsky and Summa, and they went over the letter that they had sent in to Council.

Council Member Filseth: I met with Levinsky and Summa. I got a copy of the letter they sent to Council.

Mayor Holman: I had a phone conversation with John Northway, the architect. He described what was in the Staff Report and the revised proposal. I also had a conversation with Jeff Levinsky, Doria Summa and along the way a couple of other members of the public whose names I don't recall.

Council Member Kniss: To start with the obvious one. Why don't you say a little more about the State law and its impact on this project? Just to refresh us. Maybe you could talk about where it's been done elsewhere and have people voted against it, have they been sued. What's the background?

Ms. Gitelman: Why don't I start, and then I'll let the City Attorney clean up after me. We've tried to address this a little bit in the Staff Report. I don't think there's a lot of history with the Density Bonus Law. It's not something that any of us are comfortable having the State mandate when we have to approve densities that are not consistent with our zoning and not consistent with our Comprehensive Plan, as we point out in the Staff Report. The law is the way the law is. To comply with the law, we had to adopt a local ordinance in Palo Alto to implement the law. That's where this provision came from, the menu concessions versus the off-menu concessions. These were off-menu concessions, so a pro forma and economic analysis was required, which is a large part of the conversation that we had with the Council previously and again this evening. In the Staff Report, we summarize the threshold of findings that are required when approving density bonus concessions. At the bottom of packet page 948, we identify the very specific findings that would be required if the Council wished to deny the concessions. In our view, we don't see how you would make these findings. We're happy to hear from Council if there are ideas or thoughts that we haven't thought of. I'll turn it over to Council.

Cara Silver, Senior Assistant City Attorney: Cara Silver, Senior Assistant City Attorney. The one piece of information that I would add to that is that there have been very few cases that have interpreted the State Density

Bonus Law. Right now we are stuck with the plain wording of the statute. Many cities are finding themselves in similar situations unfortunately.

Vice Mayor Schmid: Director Gitelman said it would be good to have KMA respond to Levinsky's question on costs, especially on page 8 of your supplemental report, packet page 1090.

Mr. Kawahara: I understood the comment was in regard to the table on page 8 that calculated the \$560,000 net value figure. The implication was that, because there was a positive value of the proposed project in relation to the CS zoning alternative, somehow that would mean the concessions would not be necessary to pay for the affordable housing costs. That's what I was gathering from the comment.

Council Member Schmid: The costs are fully imputed in that, so that's a net positive number.

Mr. Kawahara: That's true. Let's keep in mind that if there wasn't a positive economic impact to a developer, no developer would pursue a density bonus. Yet density bonuses are pursued all over the state. We have to remind ourselves that there would need to be an economic incentive for a developer to pursue it. That is in fact what's present here and reflected in that \$560,000 figure. That's one comment to remember. The second is that per the State Density Bonus Law, we are required to analyze the BMR cost. That's what we've done. And compare that to the value to the developer of building the proposed project as compared to an alternative. That's what we've done. By comparing the two, we have come to the conclusion that the value increment is less than the BMR cost. I'm not sure that I concur with the point of view of the audience member.

Vice Mayor Schmid: I also have a question on Attachment D. I'm not sure who's responsible for that. It's the traffic analysis. Attachment D says that the traffic in the area, percentage growth range between 0.5 and 1.1 percent annually. The analysis was specifically intended to account for development in the next 20 years. I had pointed out that in the existing conditions report, when you look at the delay factor between 1998 and 2014, there is an annual average increase in traffic at Page Mill and El Camino of 2.3 percent per year, substantially above what the model was saying. I point to traffic because that has been indicated by the public in the Citizen Survey as the most sensitive indicator of issues and problems with development in the City. Over the last six to eight years, the number of people identifying that as a critical issue has risen dramatically from 60 percent to some 70 percent of people on the survey. It's a critical issue of what's taking place there. One of the key steps was to do a cumulative

analysis, that is take this into account with all the other things that are going on and see what it means in the future. Two weeks ago, we got a traffic study from 2555 Park. They actually had a cumulative analysis. compared the intersection at Page Mill and El Camino in 2013 to 2035. They said that the cumulative growth in traffic averaged 3.3 percent per year between 2013 and 25 given background traffic and the projects that were in line to take place. That is pretty convincing evidence, from at least the data that we have been given, that in the past traffic at that intersection has been growing well above the 1 percent which is "normal." The cumulative impact in the future, used by Mr. Dudek to say the project at 2555 would not have a significant impact because the cumulative traffic was so high. Here's another project at El Camino and Oregon adding to that cumulative traffic. The numbers given us seem to say that's a real issue. The data we have in Appendix D concluded that the Citywide traffic model, which incorporates all the projects and the ABAG numbers and the VTA model, should be growing on the order of 1 percent per year. How do we reconcile this report we have, which says cumulative traffic will not be a big deal, with the one we were given two weeks ago, which says cumulative traffic is astoundingly high? F---. How do we deal with traffic?

Ms. Gitelman: Thank you, Vice Mayor Schmid. If I can respond. First, I'm glad you raise the question again about the existing condition report and historic growth rates at this intersection. After our last conversation in January, we did track down the data you're referring to. There's a confusion between traffic volumes and delay. The data in the existing condition report is talking about delay. It indicates over the period that we're talking about that there was, what I would think of as a relatively understandable, given the traffic experience we're all having, increase in delay from 36 seconds to 52 or 53 seconds. That's delay. What we're talking about when we're looking at this cumulative impact memo and the growth rate, that's talking about volumes. That's the change in volume over time. I don't want one to be confused with the other.

Vice Mayor Schmid: If I could read a sentence from the existing conditions report, which has both volume and LOS delay. It says peak hour intersection LOS are a more accurate way to assess performance. Average daily traffic provides a quick overview requiring much less data collection. I took that to mean that the delay was a more accurate measure. That's what you've told us.

Ms. Gitelman: Again, I don't think average delay is the measure that we should be looking at when we're comparing to the traffic forecast model, which is looking at volumes. That's the point I'm trying to make. In the cumulative impact analysis, we're trying to project forward what we think

based on historic growth trends, what we know about how the region is growing, the ABAG numbers, all the projects that we know are happening. We're trying to forecast forward the changes in volumes over time. That is different than looking backward at number of seconds of delay. I don't think we should confuse the two of them. Your point about cumulative impacts ...

Vice Mayor Schmid: Why did we vote two weeks ago the Dudek report which used delay and said this is less than significant?

Ms. Gitelman: We do analyses of traffic impacts by looking at delay. The original memo that you referred to originally is looking at volumes. We did do an analysis of delay. We did the very same type of analysis that was done for 2555 Park. This is an intersection that is severely congested. All of us understand that. The question is whether this project or any one project would make a contribution that is considered considerable to the traffic that we project forward into the future that is going to continue to be unacceptable to many of us who have to drive through the area. These are all valid questions. We did the same type of analysis, the same questioning on 2555 Park that we did for 441 Page Mill Road. I'd have to look at the specifics in the document that you've been showing us to look at exactly what the crosswalk is between the two. We're not aware of any consistencies. These are very similar methodologies, very similar Traffic is definitely bad. conclusions. The question is whether these individual projects would make a considerable contribution such that it would be considered a significant impact.

Vice Mayor Schmid: My concern is that each project we deal with, including the 1 million square feet at Stanford, comes to the conclusion that this project is not going to have a significant impact. Yet we approved 2555 on Park Avenue. There are two other major Park Avenue projects. There's a big Holbach project which has been approved, hasn't started yet. At some point cumulative impacts do have an impact. The question is, is this one of those cumulative impacts that are getting the public to say in the survey this is an issue for us. This is declining. As a matter of fact, the transportation agency, what is it, FTE? In their most recent volume on traffic said delay is pretty tricky to measure, because you're measuring an intersection and sometimes delay affects things behind it. The more accurate way they are recommending these days is point to point. How much time does it take to get from Point A to Point B at various hours of the day? I noticed they are Menlo Park, Alameda and some of the East Bay recommending that. counties are using that for their traffic analysis. Maybe we should try some of that to get an accurate measurement of what our cumulative traffic impact is.

Ms. Gitelman: You're absolutely right. This is an evolving area. As the State starts to move away from Level of Service, all local agencies are looking towards other measures to try and measure traffic impacts including cumulative impacts. In the existing conditions report that you mentioned, we've started this process of identifying travel times for different links in the City that hopefully over time we can monitor and amass data about how those are changing. In this project, we've had to fall back on the methodology and the thresholds that are established by the VTA. I don't necessarily think those thresholds are the greatest thing in the world, but those are the thresholds we have. One of them involves the contribution of a project towards significant cumulative impacts. It gives us a way to consider whether those project contributions are significant. We've used the tools that we have. I would love to have a fuller conversation with the Council at some time in the future about how we're going to move away from this standard methodology based on the changes in State law. We are where we are this evening.

Vice Mayor Schmid: Maybe just a suggestion. It might be useful to have not a formal Council session but a working session some afternoon, where people who are interested could sit around and talk about these models and what they're based on and alternatives. We do this every single application and the same issues are there.

Council Member Burt: I do want to acknowledge the significant improvements in the project from when we received it last. From the standpoint of the proportion that is housing and the increased amount of affordable housing and the smaller units and less office, these are all constructive movements. I share Council Member Schmid's concern about the cumulative impact. I want to ask slightly differently and briefly of Director Gitelman. We have related projects in the area that are having impacts at the cloverleaf that boards onto Oregon Expressway going east. What options do we have to impose constraints that are based upon those cumulative impacts as opposed to how significant an individual project may be?

Ms. Gitelman: Thank you, Council Member Burt. We do have a Citywide traffic impact fee. In the budget that was approved earlier this evening, we've included funding to update a nexus study and look at revising the Citywide traffic impact fee to potentially fund additional improvements. The Comprehensive Plan analysis we're doing for the Comprehensive Plan EIR right now offers a great opportunity to look very broadly at cumulative impacts in a way that you can't do for an individual project. An individual project analysis becomes not only about the cumulative picture, but about that project's contribution and what a reasonable ...

Council Member Burt: Under CEQA, to what degree, if any, can we give greater emphasis to the individual project impacts versus the cumulative?

Ms. Gitelman: Under CEQA, when we're looking at an individual project like this one, the question is what the project's contribution is to the cumulative impacts and whether it's considered considerable. I don't have the guidelines with me, or I'd give you the section. In the Comprehensive Plan EIR, effectively what we're analyzing are cumulative impacts of growth over the life of the plan. We are going to find that there are significant impacts that need to be mitigated. Presumably we'll put a mitigation regime in place that will require of individual project applicants something to mitigate those cumulative impacts.

Council Member Burt: The other concern is whether we will have additional parking spillover. I was struck by the parking survey that one of the neighbors did. It seems that the only recourse we'll have as a City—I shouldn't say only. The strongest one that we would have if we see additional spillover from this project that is different from what the analysis has anticipated would be the Residential Permit Parking. Even though it's not before us tonight, can you or the City Manager give us any sense of if we saw additional degradation of the parking on Pepper and Olive, how difficult would it be to add those streets to the RPP Program in the not too distant future, after this project came online?

Ms. Gitelman: Thank you again, Council Member Burt. We do point out on packet page 952 that there is a possibility to pick up four or five spaces on Ash Street, if we change the parking regulations on Ash Street. There's some potential additional supply if we look hard at the neighborhood. Again, our analysis is showing that we're not going to need to do that. If we did, we could. In addition, as you point out, we could go through the process that the Council established in an ordinance adopted last December to establish the RPP.

Council Member Burt: My questions was slightly different. If we see that there are those impacts, this thing gets constructed, and shortly thereafter we see that we've had significant additional degradation or, for that matter, see that the other projects already under construction in that neighborhood cause a tight parking situation to get worse, how hard would it be for us to go forward with an RPP Program for these streets?

Ms. Gitelman: The ordinance that the Council adopted provides for initiation by the Council or by a neighborhood. There'd be two ways that we could bring forward that proposal and consider it for adoption, like we're considering the Downtown program, like we're implementing.

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Council Member Burt: If that occurs, then I will be supportive of going in that direction.

Council Member Filseth: I had some questions. I wanted to talk about traffic too. A lot of this has been said already. It says on page 1082 of the traffic report that the consultant projects that the delay at the Page Mill/El Camino intersection is going to increase 1 1/2 seconds a year through 2035. It looks to me like the operating criteria for this intersection, it looks like the City defines no impact or the impact threshold at this intersection as if it causes at least 4 seconds delay. I'm curious how the City would treat two projects a couple of months apart, each of which contributes 3 seconds delay. Would that still be no impact or how do we account for that?

Ms. Gitelman: I'm probably wading in deeper than I should on this. My understanding is we look at that threshold that you've just cited as a way to determine whether an individual project's contribution to a cumulative impact is considerable. It's a threshold that was created by VTA. We didn't make it up ourselves. It's given to us and used in our area.

Council Member Filseth: That was my next question, where does the 4 seconds come from. Why is it 4 instead of 3.5 or 4.5?

Ms. Gitelman: Maybe the traffic consultant could respond to that. I don't know where the VTA came up with that, but there it is.

Council Member Filseth: I'm going to postulate here that maybe we need our own criteria in Palo Alto, instead of following something from VTA or Sacramento. It may be that what we ought to do is sit down and review our traffic no impact criteria. A lot of concern in the community about this stuff. The other thing I wanted to ask about the traffic. Somebody mentioned and I was curious about it, workers who are leaving 441 in the afternoon, if they want to go 280, you can only turn right onto Page Mill. Most likely they're going to go through the neighborhoods in order to get back to El Camino and then pull a left turn onto Page Mill out to 280. I didn't see that anywhere in the traffic report or any discussion of that. Is it in there somewhere?

Ms. Gitelman: I don't know if the applicant or their consultant could respond to that.

Ms. Campagna: I can add if you turn right on Page Mill in order to get westbound on 280, you would get off immediately at the AOL building and go onto Park for one block, turn left on Park and go around.

Council Member Filseth: You'd go down the street, go down to Park and then go through the neighborhood.

Ms. Campagna: The neighborhood is Park. You're not turning on Ash. You wouldn't want to do that.

Council Member Filseth: Why not?

Ms. Campagna: Because you'd have to go around to Park and pass AOL. It's quicker if you ...

Council Member Filseth: It seems to me you're going to need to make a couple of rights. You could either turn on Ash and then turn right to get back to El Camino. If you got on Park, you're going to have to get on Olive or something like that.

Ms. Campagna: You could turn on Ash and turn and get onto Pepper. I've experienced that. You can't crossover El Camino to turn left to get westbound on 280. You'd be safer getting off on Park, going around by Holbach's building and coming back around right on Page Mill.

Richard Hopper, Traffic Analyst: I'm Richard Hopper. I did the traffic analysis for this project. We did look at the traffic impacts on Pepper and Olive using an analysis called a tire index, which the City uses. There will be traffic going through the neighborhood to get to El Camino going south or to west on Page Mill Road. We looked at the change in traffic as a result of those movements. There was no change in the tire index.

Council Member Filseth: It was a no impact.

Mr. Hopper: Correct.

Council Member Filseth: The last question I have on traffic. You said you were going to talk about this. There was a question about deliveries and waste collection. How does that happen?

Ms. Gitelman: My suggestion was that we ask the applicant that question.

Mr. Hopper: We looked at that. The large delivery vehicles would not be able to access the site. The fact that we're recommending no parking along Page Mill Road in front of the site for corner sight distance of vehicles coming out of the driveway. We suggested that a section of Ash near Page Mill Road be set aside as a commercial loading zone to accommodate those vehicles.

Council Member Filseth: They're going to turn the corner onto Ash and then load garbage or office supplies or whatever.

Mr. Hopper: No, the garbage trucks will be able to access the site.

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Council Member Filseth: That's a pretty low overhang to get into the ...

Mr. Hopper: The containers would be brought out to the street for them to load and unload. Delivery vehicles ...

Council Member Filseth: They'll stop on Page Mill while they load the containers?

Mr. Hopper: Yes.

Council Member Filseth: At rush hour.

Mr. Hopper: I don't know what rush hour. FedEx and other types of delivery vehicles, that's where we're recommending that they have a loading zone. Smaller vehicles like pickups and so on could access the site and park as other vehicles would. The larger vehicles could not be accommodated on the site.

Council Member Filseth: I wanted to ask a question about parking. If I understand it right, the plan is for there to be 91 parking spaces. I was trying to figure out how many of those are for the BMR units versus the market rate units versus commercial. It looked to me like it was about seven or eight spaces for the BMR units. Did I get that right? There's 4,128 square feet of BMR units, which is—there's 26 spaces allocated for residential and 30 percent of those are BMR. That's 30 percent of 26, the number of parking units. Did I get that right? Less 15 percent.

Mr. Reich: The parking spaces aren't specifically assigned. Your math is accurate. It sounds right.

Council Member Filseth: You're looking at about eight for the BMR units. The total is 91. It's actually seven, because you have to take off the 15 percent for the overlap. The total's like 91. Is that right?

Mr. Reich: Total parking spaces is 91, which is a 14 percent reduction from the 106.

Council Member Filseth: Seven of those are the BMR units. It was the big head scratcher, and this was true back in January. How is it that to build three or five BMR units, it takes 9,000 square feet of commercial space at \$6.50 or \$7 a square foot? The answer was the way this is structured is that the original project doesn't require a parking garage. Once you add the BMR units, then it requires a parking garage which increases the cost significantly. Right?

Ms. Gitelman: I'm not sure it's just the BMR units that mean you have to add the parking garage. Is that what you're saying?

Council Member Filseth: That's a major piece of the argument which is once you add the BMR units, there's enough parking needed that you outstrip the ability to handle it on one level and you have to build the garage. You guys were pretty clear about that.

Mr. Reich: I don't think that's the argument we're making at all. We're saying that the project that the developer has proposed includes belowgrade parking. Because there are BMR units in the project, the below-grade parking is included in the cost analysis.

Council Member Filseth: I understand. The project without the off-menu concessions doesn't have a parking garage.

Mr. Reich: That's not necessarily true.

Ms. Campagna: May I address this? If you just look at the CS zoning for commercial that's allowed on the site, which is 10,770 square feet. 4,000 of it is required to be at-grade. You're required to have 4,000 commercial on grade, so that's retail. The retail stays. Our retail, which is what we have now, is 16.25 parking spaces. If you subtract that square footage of the retail which is 3,250 from the 10,770, 7,000-something. You divide that by 250, your normal office number, you end up with 30 spaces. The retail alone is 16 plus the office at 30, we're at 46 spaces already. You'll notice our ground floor parking is only 34 spaces. That hasn't added any of the residential in. The mixed-use zoning allows for 16,156 square feet of residential. We're already at 46 spaces, which means we're underground. That hasn't even added in the residential factor.

Council Member Filseth: That wasn't how I read this. Let me ask this. The construction costs are dramatically different from the base project versus the off-menu concessions project. In the text it says \$6.2 million difference or something like that. How much of that is the parking garage? If the parking garage was already there, where does the \$6.2 million come from?

Mr. Kawahara: The incremental cost you're referring to is the difference between the proposed project versus the CS zoning alternative. Obviously the proposed project is a larger project than the CS zoning alternative. The total project costs would be higher. It's true as well that the proposed project has no underground garage, which also is an added cost as compared to our assessment of the CS zoning alternative. That is accurate.

Council Member Filseth: What's the construction cost of the garage?

Mr. Kawahara: In terms of the cost estimates that were included in the analysis, we reviewed general contractor estimates provided by three general contractors. They were provided for the developer. We had a follow-up conversation with a couple of the general contractors in regard to those estimates. The general contractor estimates did not break out the construction cost for the parking garage. That's typical; they wouldn't do that. It's not uncommon for underground parking garages to cost upwards of \$40,000 or more per stall.

Council Member Filseth: How many stalls are there in the garage?

Ms. Campagna: There's 57 underground.

Council Member Filseth: That would be 2 1/4 million. That seems low.

Mr. Kawahara: I threw the \$40,000 out there because it's a common number as a rule of thumb for underground parking. Geotechnical conditions come into play for each site. It varies.

Council Member Filseth: I'm curious. It says in the text that the allocation of the cost of the garage to the residential units and the BMR units is based on square footage area ratios. I think I saw that in here. Is that right?

Mr. Kawahara: We included the cost of the parking for the BMR units, that is true, based on an estimate of the cost for the parking spaces. I'm trying to remember the number that was used specifically. It was probably in that range.

Council Member Filseth: It says here that the pro rata cost allocation was based on a cost per net rentable square foot. In this analysis, the cost is allocated based on gross building area including the area needed for residential parking. I'm curious how much of the cost of the garage is loaded onto the BMR units. If it's based on area, then the area usage for parking is different between the office space and the residential space. I was trying to figure out how much that was.

Mr. Kawahara: We did a similar calculation of what we just talked about in terms of how many spaces were needed for just those five BMR units. I don't recall now if it was the seven that we just came up, but it was something like that, I think. That was the number that was assigned to those BMR units.

Council Member Filseth: That's not what it says here. It says here it's done by area. You've got 7,000 square feet out of 35,000 square feet. It's 15 or 20 percent of the area. Whereas, 7 over 91 is 7 percent.

Mr. Kawahara: When we say that it was done by area, we took the gross square footage of the actual BMR units, those five units, then we added to that the square footage of the parking spaces that we just talked about for those units. Then we added in the common areas for the residential space, the lobby and so forth. When we talk about area, that's what was included in that calculation.

Council Member Filseth: It seems to me the cost of the rental units themselves is 4,128 square feet times \$290. That's \$1.2 million. Yet, you come up with a total of \$2.15, \$2.16 million for the total cost of those units, which is \$1 million higher.

Mr. Kawahara: Maybe while we're talking about other topics, I can double check some of those numbers for you. I'm pretty certain those numbers are correct.

Council Member Filseth: When I penciled it out, if you took the area of the garage and you assumed that the garage and some of the other areas added up to several million dollars, \$5-\$6 million, which is the construction cost difference. If you weighted by the ratio of parking spaces needed instead of square footage of the total area, the difference was somewhere between \$0.5 million and \$700,000 or \$800,000. That's what it seemed to me when I penciled it out. That would make a difference on how many concessions were necessary. One other question I wanted to ask was on the economic model. You've got some lovely charts. You talked about what the average increase in office rental rates was likely to be over the next few decades. You came up with 3 percent on average, I think you assumed. it's on page 1104 of the packet. Where does that get factored into the analysis?

Mr. Kawahara: The assumptions about growth in rental rates is needed for purposes of a discounted cash flow analysis. It's run out for 99 years. You assume that rents grow by 3 percent a year, and that's factored into the discounted cash flow analysis.

Council Member Filseth: If you take 2000 to 2014, which you did, then over those 14 years you get 3 percent a year, compounded annual growth. If you take 2002 to 2014, instead of 2000 to 2014, then you get 6 percent a year, which is 2X. It's pretty sensitive to exactly where you take your time period. Depending on where you wanted to pick, you could pick almost any number you wanted in that range.

Mr. Kawahara: You're right it is sensitive to the range of the time period that you choose. We were purposeful in choosing that time period, because it reflected two up periods as well as two down periods. There's only so far

back you can go to get good data. We thought that was a reasonable period that reflected both ups and downs in the market.

Council Member Filseth: That's the challenge here. The outcome of how many concessions are needed, it's really sensitive to that number. hugely sensitive. I struggle with that. I will comment a little bit. Mitigated Negative Declaration. We already talked about traffic. You're going to have so many car trips a day, and some of them are going to go through the neighborhoods. Anybody coming from 101 is going to pull a Uturn at that signal. Our methodology is we look at this stuff, at the moment, pretty much in isolation using guidelines from other places. I'm not sure how to set this in context. Everyone of these we do—this is not germane to 441 alone—comes up with a no impact. I'm not sure how to do the context. The second thing on the Mitigated Negative Declaration. Some of this is nitworthy. For example, we say that this project—it's on page 1065—will have no increase to the jobs/housing ratio. I realize we're dealing with small numbers. It says it'll have no impact to the jobs/housing ratio. That's not true. It's going to have, depending on whether you're at 250 employees per square foot or 125, somewhere between 65 and 120 jobs. You're going to have a net gain of 13 housing units. That's a jobs/housing ratio of 5:9.5, which is higher than the existing 3.3. That's not right. I'm looking at the Mitigated Negative Declaration. It says we're projecting to increase the population to 62,880 by the year 2010. This seems old. It says at the beginning that it's done on November 8, 2013. Some of this is data from six, seven, eight years ago. There's some other stuff in here. On page 1067, it talks about park impacts. The Declaration says a city the size and density of Palo Alto should provide 2 acres of parkland for every 1,000 residents. That's listed as 2002. The Comp Plan says it should be 4 acres for every 1,000 residents. That's Policy C-28 in the Comp Plan. It's not seismic, but there's a lot of stuff in here that's not right. One of the things we're being asked to do is thumbs up the Mitigated Negative Declaration. I'm having trouble doing that. My summary is I have questions about whether the costs were done right in the allocation, particularly the parking garage since it's such a big impact on the costs. Whether that's done right, I'm not confident. I've seen this for a few days, and I don't know what the numbers are. Value of the cash flows seems to be pretty darn sensitive to exactly which time period you extrapolate from. I'm not sure how to assemble all this.

Council Member Scharff: I thought the applicant did a good job of listening to us the last time we were here and coming up with less commercial and more residential, more units, more BMR units. They did a good job in terms of listening to what Council said. It's important to note on the State density stuff. Page 8, packet page 948, gives the criteria of what we have to do in

terms of the density bonus. There's certain threshold findings. I've asked myself, "Have they met the threshold findings?" We hired Kaiser Marston; Kaiser Marston says they need this. It's hard to come up with our ideas and say it doesn't meet it because we're looking at this or we're looking at that. It's fairly straightforward when our consultant comes forward and says, "Yes, they've met that." For meeting the threshold findings, they've done that. If we're unable to make the findings, we may only deny the concession for a bunch of other issues, which I'm not sure we could do that either. It seems to me they've got the State density bonus project issues. We get to some of the other issues, which would be traffic. Vice Mayor Schmid made excellent points about traffic. It's a very frustrating issue for us in terms of traffic. Unless we're going to deny all projects and not use the VTA model and say we're going to have a moratorium until we get a new traffic model, I'm not sure we can say this project is different than any other project in terms of traffic. I don't find that as compelling as when we've done a traffic study that says, even though a traffic study may not be the model we'd like to use. In fact it may not be the model that the State's moving towards. I'm having a hard time saying we should deny the project on that. The parking reduction, I would much prefer that we had the 106 parking spaces. What I'm gathering from this is the fact that we have a TDM in place on this, that we will have less trips and hopefully less required parking. Therefore, it'll deal with both traffic and parking in a positive way. I'm persuaded on the parking. We recently made the same decision when the Park Boulevard project came to us. We did that. It would be inappropriate to do that. I'll deal with the DEEs. No one's talked about those yet. interesting here. Me and Mayor Holman wrote a colleague's memo to push back the sidewalks. It's a better project with that. In fact, my recollection is we've asked Staff to come back on the issue of pushing stuff back from the sidewalk. That makes it an extraordinary situation, where Council has given direction to Staff to go ahead and figure out how to push things back off the sidewalk. We're stuck with a Code that we don't like and don't support, since we've given opposite direction. It is an extraordinary circumstance when you have Council giving direction to do that. I would grant that DEE. I'm going to ask a question on the second DEE. The way I read the Staff Report is that if we grant the first DEE, which is push it back, we need to grant the second DEE, otherwise you couldn't park it. That almost makes it an exceptional or pushing the building back. extraordinary circumstance for the second DEE, because it's forced by the first DEE which Council has given direction that they support. This is very different than when we looked at the Park Boulevard one on the DEEs. I'm going to support that. We also want to have street trees. We have a strong policy in Palo Alto to have street trees. If we don't do this, we can't have the street trees. At least, that's what I read from the Staff Report. Is that correct, Director Gitelman, that we need to have street trees? I can't vote

against having street trees. I don't see where there's a reason that we should vote against this project with the exception of possibly traffic issues. As I said, then we'd have to vote against all projects. I'm going to move the Staff recommendation which is that Staff recommends the City Council approve the Mitigated Negative Dec. We can just say I'll move the approval of the Mitigated Negative Declaration, MND, and Addendum and Mitigation Monitoring and Reporting Plan and what it says under the recommendation.

Council Member Kniss: I'll second it if you're done. Are you?

Council Member Scharff: I am done.

MOTION: Council Member Scharff moved, seconded by Council Member Kniss to approve:

- A. The Mitigated Negative Declaration (MND) and Addendum; and
- B. The Mitigation Monitoring and Reporting Plan (MMRP); and
- C. The revised Site and Design Review application; and
- D. The two Design Enhancement Exceptions (DEEs); and
- E. The three density bonus concessions for the revised project at 441 Page Mill Road, based on Architectural Review (AR), Design Enhancement Exception (DEE), Context Based Design Criteria and Density Bonus Findings, and subject to the conditions in the draft Record of Land Use Action.

Council Member Scharff: The hour is late and normally I would wait to hear a little bit from Council Members, more of what they have to say on this. If there's amendments and things like that, I'm more than open to listening to it. We need to focus the discussion on the issues before us and bring this to a conclusion.

Council Member Kniss: I said something earlier about the State law. Coming up against the State law is like coming up against ABAG. We always think that we can fight ABAG or we fight what the State tells us or doesn't tell us sometimes. It's a very frustrating situation. The conversation that Eric and the Vice Mayor have had has been absolutely right on as far as traffic goes. Council Member Scharff just said it. If that were the case, that traffic were to stop any project that were going to take place in this community, we wouldn't have any projects going ahead. There is always some type of traffic that is going to impact the project. This one is a tough one to vote for. Not only does it use design exceptions and a density bonus,

but it's also on a somewhat awkward road. As we have said, to get out you've got to turn to the right. I know how to do this very well, because I do that Alma turn a great deal and also go out onto 280. It is awkward. We'll get more awkward as the Holbach building comes into play. I don't think that's a reason to turn this down, however. This is a project that's worked hard to provide the parking. It's very clear it's worked hard to alter and add more BMR units, which are pretty good sized. By the way, I went through and looked at them. Three of them are 900 square feet, which is a good sized BMR unit. I commend the architects for finding more BMRs. That certainly is probably the nugget in this plan. I'm supporting it. I certainly hear that it's difficult to do that. I'm in favor of this.

Council Member Berman: I agree with Council Member Scharff. applicant definitely listened to what we said six months ago or five months ago, and has come back with a better project. I won't go over the handful of things that have significantly improved the project since then. I want to revisit with the consultant. I'm sympathetic that it's 12:30 in the morning and we're throwing lots of random numbers at you and expecting you to come back with precise answers. I wanted to revisit Jeff Levinsky's points. I don't always agree with Jeff, but I always appreciate the way he lays out his argument. If I'm understanding the answers that you gave Council Member Scharff earlier—I think it was Council Member Scharff, it might not have been. The argument that Mr. Levinsky makes is according to your analyses the cost of the BMR units are either \$1.5 million or \$3.2 million, depending on which analysis you use. The benefit to the developer is either \$600,000 approximately or \$1.2 million, depending on which analysis you use. Mr. Levinsky is saying the benefit already takes into account the cost of the BMR units, which seemed to be right. This is where I wish I had the legislative history and the legislative intent. Your point is that doesn't matter, because what the law says is that you're supposed to—I'm not saying I agree with this. If it's the law, it's the law. Your job under the law is to compare the benefit to the developer to the cost of the affordable housing. Is that correct?

Mr. Kawahara: I would articulate it this way. The State laws says that we are to quantify the cost of the BMR units. That part of it is pretty clear. That is what we've done as part of the analysis, in two different ways. The question before us is whether what the applicant is asking for with respect to concessions is more than what is needed to cover those costs. That is the critical question that we're helping to analyze. As I stated before, no developer would pursue a density bonus unless there was some economic incentive to do so. The question is whether that benefit and economic incentive is too much or is adequate. That is the question that we're trying to address.

Council Member Berman: We do come to the conclusion that the benefit—I That's capitalism. agree with you. The developer is not going to do something that's going to cost him money, unless he's loaded and doing it out of the goodness of his own heart. The conclusion is that the developer will benefit from this, which I can understand. My analysis is if that's the law, then that's the law. That's quite difficult to find against. Does giving the developer an additional \$600,000 or additional \$1.2 million warrant five units of below market rate housing? We've seen in other issues that have come up before us that below market rate housing in Palo Alto is going to cost a lot more than that to develop or to save in other instances, at least from the numbers that I've seen preliminarily. That's one of the factors that I'm looking at in deciding the merits of this project. The below market rate units will either cost \$120,000 to \$250,000 per unit of additional benefit to the developer. I agree with a lot of the other comments that Council Member Scharff made. I'm sympathetic to the cut-through traffic issue. I grew up on a street called West Crescent that's in between University and Hamilton right off of 101. We had a lot of cut-through traffic during rush hour. This was back in the time of Wayne's World. We would always have the game on, game off joke when we were playing in the street when a car would cut-through. We understood that we lived right off of University. We should do what we can to make sure that we mitigate the cut-through traffic. I agree with Council Member Burt that if overflow parking becomes more of a problem than it already is, then we should move forward expeditiously to mitigate that also. The applicant has done what's necessary to meet the criteria. I'm going to support the project.

Council Member DuBois: Now I know why we have the rule about not picking an item up after 10:30. The key question is are the concessions necessary. What I've heard from different people is I don't think they are. I want to dig into that, if I could. To follow up on Council Member Berman's question. The incremental value of the concessions and then the cost. It seems like on both sides of that equation you're factoring in the lower rent for the BMR units essentially. Is that correct?

Mr. Kawahara: It is correct that the comparison between the proposed project and the CS zoning alternative did include the cost of the BMR units. That is correct.

Council Member DuBois: That's the part that's confusing me. I've been staring at it for a long time. In the cost side you're including the lower rent of the BMR units and then you're subtracting that cost from the value, which also includes the cost of the BMR units. You're double counting the cost of the BMR units. If you factor that out, it's a pretty big swing.

Mr. Kawahara: I wouldn't agree with you. I wouldn't agree with you that we are double counting the costs. What we're being asked to do by the State Density Bonus Law is to estimate the cost of the BMR units. That's one question. We've done that.

Council Member DuBois: That includes the lower rent of the BMR units themselves.

Mr. Kawahara: Correct. What we're being asked is whether the benefit to the project with the BMR units is in excess of the cost of those BMR units. If it is in excess, then arguably they do not need all the concessions they're requesting.

Council Member DuBois: Right. The value includes a lower value, because it has BMR units.

Mr. Kawahara: That's part of the project, so you have to include the cost as part of their project. I don't agree with the point that this is a double counting of costs.

Council Member DuBois: I'm still having a hard time understanding that. It's like saying here's the value of a rental but it's a subsidized amount. The expenses to run that rental also include that same subsidized amount. It looks like you're losing money. If you only apply that to one side of the equation, you're actually making money.

Mr. Kawahara: The problem that I'm having with the argument, as I'm hearing it, is that the project has a net economic benefit to the applicant as compared to this CS zoning alternative. I think the therefore is that, because there is an economic benefit from the proposed project, he doesn't need any of the concessions he's asking for. On that basis, you could deny every single density bonus application in the state, because every project is going to have an incentive to do it.

Council Member DuBois: I'm saying something quite different. There's a significantly larger benefit than we're seeing.

Mr. Kawahara: Right. That is the very question that we're analyzing. Whether that incremental benefit is too much. Not whether or not the cost is included in both sides of the equation.

Council Member DuBois: Let me ask you a question about the alternative zone. Did you make similar assumptions on parking exemptions and a TMA and all of that?

Mr. Kawahara: I'm trying to think. Your question is whether the parking assumptions in the CS zoning alternative were similar to that in the proposed project.

Council Member DuBois: Yeah. We're looking at a limited number of ground floor parking spots, but we're also saying it should be under a TMA because it's close to public transportation and other factors. Yeah, TDM.

Mr. Kawahara: I think the answer is yes, but I don't recall exactly.

Council Member DuBois: The architect made the point that the building's at the max residential density, but that's without the State Density Law. In fact, you're not using any residential density from the State law. Is that correct?

Mr. Kawahara: Yeah, that's true.

Council Member DuBois: You're using the State law to get concessions. When can the City effectively cut back on a concession? That's probably for the City Attorney.

Ms. Silver: When the differential that we're analyzing is too much. That is the nature of the analysis.

Ms. Gitelman: We have talked internally about whether there would be a way to amend our Density Bonus Ordinance in the future. If this came up in the future, we might not have to grant concessions if it was a situation like this in which a density bonus has not been requested. They're not requesting any residential bonus. They're just requesting the concessions. It may be possible to look at our ordinance in line with an interpretation that wouldn't allow that in the future. There are other policy questions that would have to be considered. That's probably a conversation for another day.

Council Member DuBois: I did try to do some reading on the history of the State Density Law over the weekend. Looking at other cities, it seems like setbacks are a common concession. I didn't see any examples where office space was a concession. Would you guys agree that giving a variance on a setback is a common concession under the State Density Law?

Ms. Silver: It's a very common exception. The Density Bonus Law allows concessions on any of the development standards. The amount of office space is a development standard in this particular zoning district. As we've discussed, it's not an on-menu exception. The Council made a policy decision that they don't want to encourage the use of excess office space to

be a de facto concession. If the findings are made, it can qualify as an offmenu concession.

Council Member DuBois: I couldn't find any examples of that. It seems to be an untested area.

Ms. Silver: You're absolutely right. There are only two published decisions on State Density Bonus Law. It's not a statute that has been heavily litigated. You're correct.

Council Member DuBois: At the same time, we have two DEEs which are setbacks which are viewed by the State as concessions. In effect, we're giving five concessions and no residential bonus under the State law, is the way I'm seeing it.

Ms. Gitelman: Our interpretation is that the DEEs are consistent with our Code and would be granted by the Council if you agree that the circumstances or the findings can be made. We wouldn't consider those concessions under the State Density Bonus Law.

Council Member DuBois: We're just calling it a DEE, but again it seems like it's a variance. Council Member Filseth made a point that—it's late and I don't know if people caught it. There's this whole question of what's the proper amount of square feet to apply to the costing and whether the hallways would be there with or without the BMRs. Just that number on its own would indicate that you don't need all three concessions to make the project cross the threshold that we're setting. One of the speakers, Herb Borock, made a similar point. If you looked at the direct construction costs, you'd reach a different conclusion in terms of whether the concessions are needed. On the traffic, we talked about these VTA thresholds. The City's been using those thresholds. Is Council bound to use those thresholds in a decision? The 4-second threshold for example.

Ms. Gitelman: We have a longstanding practice of using the VTA thresholds. I'd have to research what Council action had been taken. There was a Council action on thresholds of significance generally. I don't know whether they cited the VTA guidelines. This is an evolving area. We are going to have to confront this collectively, because the State is mandating that we shift away from Level of Service, which is the fundamentals of the VTA standards.

Council Member DuBois: I have concerns about the rear setback, being close to the houses. When you look at the math, it's hard to believe all of the square footage is needed to pay for these five BMR units. There's enough questions about these numbers and how we're doing this analysis.

It still comes down to how much of the garage gets allocated to the BMRs. We as a City have indicated we don't want to encourage office space being used as a concession. My biggest concern is that we're setting a precedent on what's an acceptable pro forma. I will not be supporting the motion.

Mayor Holman: Understanding the hour, I do have some things I need to bring up, which are potentially acceptable amendments. These are all found in the conditions of approval. Let me start with the first one. One is just a note. Packet page 990, under Number 4, it talks about Attachment D and the Comprehensive Plan compliance table. I didn't find it anywhere. That's a comment that Staff needs to take care of. I'm going to comment on this, and then I'll reference it later. On packet page 995, it talks about low density residential transitions, and it talks about screen trees are proposed. Keep that in mind, because we go further back and we'll find trees again. On packet page 998, Number 6, I'd like to propose an amendment. This is require that all occupants be required to park in the building's parking garage rather than on the street. The City may request a status report on the effectiveness of this measure at any time. The City may—I would like to change "may" to "shall."

Council Member Scharff: I'm sorry. Where exactly? On page 998.

Mayor Holman: On 998, Number 6. It's talking about the effectiveness of requiring building occupants to park in the parking garage. It says the City may also require adjustments to the TDM program to achieve desired results if needed. I'd like to change "may" to "shall."

Council Member Scharff: I agree with that. Any concerns from the City Attorney? Nope.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion, "the following change(s) to the Revised Draft Record of Land Use, Section 8. Conditions of Approval: Number 6, sentence three, replace "City may also" with "City shall also." New Part F

Mayor Holman: Number 7 references in two places—that same page, packet page 998. Number 7 twice references three BMR units rather than five. Council Member Scharff, I assume you have no problem with correcting that.

Council Member Scharff: Yeah, obviously not.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion Part F, "Number 7, sentences one and two change 'three units' to 'five units.'"

Mayor Holman: The next page, packet page 999, Mitigation Measure Number 11, Mitigation Measure C-1. This has to do with construction dust. This impact is considered potentially significant, but normally mitigated by implementing the following control measures. I'd like to change "normally" to "shall be mitigated." It's passive the way it's stated currently. "Shall be" or "will be," whatever the City Attorney recommends. Do you see what I'm saying?

Council Member Scharff: I don't. I'm sorry.

Mayor Holman: Number 11, the last sentence in Number 11. We're talking again about dust impacts during construction. It says this impact is considered potentially significant, but normally mitigated by implementing the following control measures. It doesn't make any requirement on the applicant whatsoever. I'm saying let's change "normally" to "shall be mitigated."

Council Member Scharff: Any issues with that? It's good. Let's do it.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion Part F, "Number 11, last sentence change 'but normally mitigated' to 'but shall be mitigated.'"

Mayor Holman: Trees, packet page 1003, Number 26. Two things here. This is on the Page Mill frontage. This is again Number 26. There are nine existing oak trees, blah blah blah. We're only replacing it with five trees, so we're losing trees. Earlier we talked about the screen trees in the back. Even though they're on the plans, I don't find them in the conditions of approval anywhere. It also does not say anywhere here—it's in the Staff Report somewhere, but not in the conditions of approval—that all proposed trees on the plan shall be maintained for the life of the project, which also would be necessary in order to provide screen for the neighbors. It would be for the life of the project.

Council Member Scharff: Or replacement trees, right? Trees can die.

Mayor Holman: Yeah. Maintain meaning you'd maintain trees, not necessarily that same exact tree.

Ms. Gitelman: We can add that to one of these conditions on page 1003 or add another condition in there somewhere.

Mayor Holman: That would be all trees proposed on the plans. Correct?

Ms. Gitelman: Yeah.

Mayor Holman: Council Member Scharff, are you good with that?

Council Member Scharff: I'm good with that.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion Part F, "Number 26, add at the end 'All trees proposed on the plans shall be maintained for the life of the project.'"

Mayor Holman: Packet page 1008, Number 50, basement shoring. Shoring for the basement excavation including tiebacks must not extend into adjacent private property or into the City right-of-way without having—this is Number 50 again—first obtained written permission from the private property owners and/or an encroachment permit from Public Works. I've been assured many times that we don't allow that. Why is that in the conditions of approval and why would we allow it? Certainly not without getting some kind of compensation if we were to allow it.

Ms. Silver: I'm not aware of this. I think there have been situations where we have allowed it. It's fine to strike that last clause, if you want.

Mayor Holman: Council Member Scharff?

Council Member Scharff: I don't know if it's fine to strike that clause.

Mayor Holman: Public Works has assured verbally several times that it wouldn't be happening.

Council Member Scharff: If that's true, then they won't do it.

Mayor Holman: Then why is it here?

Council Member Scharff: I'm not convinced that Public Works doesn't do that. I'm not convinced that there aren't times when you won't be able to shore otherwise. I don't know enough about construction. This is a technical issue. I'd rather have the flexibility that the City does what they normally do. 1:00 at night, you're asking me a technical question about shoring of construction sites.

Mayor Holman: It's not a technical question.

Ms. Stump: If I could suggest that you leave that to Staff to look into it and make a decision. We understand the interest. We do need to follow up with engineers on that one. Just as a process question. In the future, that these kinds of things come in a little bit earlier, so we have an opportunity to vet them with the professional Staff.

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Mayor Holman: The BMR units. It wasn't clear to me exactly what the life of the BMR units is. I think it's 30 years, but it's not explicitly stated. Why are they not the life of the project?

Ms. Silver: Under Density Bonus Law, rental units only need to be deed restricted for 30 years. Under the law that this project was applied for, there has been a recent change that will extend that to, I believe, 50 years. Unfortunately that does not apply to this particular project.

Mayor Holman: Perhaps I could ask the applicant if you'd agree to 50 years.

Male: Yes.

Mayor Holman: Applicant has agreed to 50 years. Is that agreeable, Council Member Scharff?

Council Member Scharff: Absolutely.

NCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion, "Below Market Rate units will remain below market rate units for 50 years."

Mayor Holman: The only other couple of comments are I am concerned about—which members of the public brought up. I'm concerned about the loading and how that's going to function. I'm very concerned about that. I don't know how feasible it is for somebody who's making deliveries to park on another street around the corner and effectively do that. I don't even know how garbage and recycling pickup is going to happen. If the containers have to go onto Page Mill, is the garbage truck going to stop on Page Mill Road? I can't see how that's going to happen. One other Council Member mentioned the DEEs. They're variances. I don't disagree with them, but they're variances and I wish we would go back to what the listing is of DEEs in the Code. I also have concerns, but I don't know quite how to get to this. I have concerns about using allocated costs as opposed to incremental costs in determining what the justification is for the entirety of the concessions. Those are my comments.

Council Member Filseth: I wanted to talk for a second about the DEEs. We all know the case for the DEEs, which is the project is better with both of them. I'd briefly layout the ned case. We keep seeing these projects where people bring us a project which is okay. Then they offer us a choice that says, "If you give me these variances, I'll make it better." We look at these things and we go, "Given those two, we'll take the one that's better with the variances." I don't think that's a good process for us. We should have a process that produces good projects that don't need variances. Yes, Council

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Member Scharff is exactly right. It's better with the trees and the wide sidewalks. We're playing a game we shouldn't be playing. That's the ned case.

Mayor Holman: We are voting on the board to approve the Mitigated Negative Declaration or MND and Addendum, and the Mitigation Monitoring and Reporting Plan and the revised Site and Design Review application and two Design Enhancement Exceptions, three density bonus concessions for the project at 441 Page Mill Road based on Architectural Review, Design Enhancement Exception, DEE, context-based design criteria and density bonus findings and subject to the conditions in the draft Record of Land Use Action. Also to change in Section 6, Sentence 3, "may" to "shall. Sentence 1 in Section 7, change "three" to "five" in two locations. In Section 11, last sentence, change "normally" to "shall be." Section 26, all trees proposed in the plan shall be maintained for the life of the project. Below market rate units remain below market rate for 50 years. Vote on the board please. That project approval passes, the motion passes on a 5-4 vote, Council Members Berman, Scharff, Wolbach, Burt and Kniss voting yes. Council Member Filseth, Vice Mayor Schmid, Holman and Council Member DuBois voting no.

MOTION AS AMENDED PASSED: 5-4 DuBois, Filseth, Holman, Schmid no

Council Member Questions, Comments and Announcements

None.

Adjournment: The meeting was adjourned at 12:59 A.M.