



CITY OF PALO ALTO CITY COUNCIL TRANSCRIPT

Regular Meeting
September 21, 2015

The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:05 P.M.

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

Absent:

Study Session

1. Potential Topics of Discussion With Supervisor Joe Simitian.

Mayor Holman: The first item on the agenda is a Study Session with Supervisor Simitian who we're pleased and honored to have with us this evening. I'm sure you have some opening comments, Supervisor Simitian.

Supervisor Joe Simitian: Thank you, Madam Mayor and Council Members. I thought what I might do is just hit the high points on a handful of issues that I expect you would be asking about anyway. Let me just, in no particular order, take three or four items that, as I say, I feel pretty sure are going to come up on the natural. These are interesting and busy times at the County, as I suspect you all have had occasion to observe. On the transportation front, to begin there, a couple of hot topics. One is a potential transportation tax on the November '16 ballot. The other is the possibility of a dedicated lane for Bus Rapid Transit on El Camino. In a minute, I'm going to suggest that there might actually be a connection between those two things that ought to be noted. Some of you will recall that in late 2014, there was some discussion about the possibility of a last minute ballot measure on the November 2014 ballot for transportation. That ultimately did not come to fruition. I thought it served as a useful reminder that this topic was going to be on the ballot in the foreseeable future. With that in mind, in September 2014 I sent a memo to our Roads and Airports Department at the County and asked if we could get some analysis on how prior tax measures had been spent, how much revenue they had generated, and if we could look at that on a district-by-district basis for our five supervisorial districts. That turned into quite a chore, but eventually in March of this year, 2015, the information came back. I asked my staff to

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help refine the numbers a little bit and to see if we could produce them in a user-friendly way, and then sent that information to all of you and to your colleagues on other councils, not only here in the north county but eventually in other cities around the county as well. Really what I was hoping to do was provoke a discussion. I think, from what I've heard from you and from others, that the discussion is now well underway. I think the takeaway I had—I'll be curious to hear your thoughts in a minute or two—was that, looking at the two most recent tax measures, Measure A in 2000 and Measure B in 2008, that BART to San Jose had really swallowed the lion's share of that funding. That meant there were precious few dollars for other congestion relief efforts around the county. Candidly, what I had been concerned about was that perhaps one district was swallowing up funds to the exclusion of another. That really didn't prove to be the case. It was that 80 percent or thereabouts of the funding from those two measures was dedicated for BART to San Jose. As worthy a project as that is, it does not produce congestion relief in significant parts of the county. Where that has led me, I'm just sharing it with you now. I think many of you already know this, but for the record it's led me to sort of have two issues that I have raised consistently now as the conversation has begun more seriously about a transportation tax measure in 2016. The first is the need for a cap on BART spending, so that we know that other funds will be available for congestion relief. The second is what I have short-handed as meaningful congestion relief throughout the entire county. Meaningful congestion relief throughout the entire county. My goal is for you to be tired of hearing me say meaningful congestion relief throughout the entire county by the time we get to November of '16. Those are the two goals really. I've used that last phrase in part to emphasize that I am not simply being a good representative for the Fifth District. I'm saying this is an issue that other districts are surely going to care about and also to underscore this is supposed to be about congestion relief. That needs to be the net result of anything that's on the ballot. I have suggested that a 25 percent cap on the funding would be appropriate for BART to San Jose. How I got there is pretty simple. Folks are saying that the BART to San Jose remainder is about \$1.2 to \$1.4 billion. I've said if the measure is going to generate 6 billion, which is the current estimate, if we said 25 percent, that gives us 1 1/2 billion. That's more than 1.2, more than 1.4, and it means that the money should be there if people are prepared to live within the limits of their current estimate. On the transportation front, that's where it is. I have not been inclined to pick out a particular way to spend that money in any part of the county even, including my district and our part of the north county or the West Valley that I represent. I'm sort of waiting for that to generate some consensus. I also wanted people to understand no, this isn't about one member of the Board of Supervisors having a wish list or a particular project in mind. It's about we need to put a cap on the funding for BART to

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San Jose to make sure that we have the money for meaningful congestion relief throughout the entire county. Why don't I put that aside for a minute, hit another couple of topics, and then we can go to questions on anything and everything, Madam Mayor? The Buena Vista, which I know you've all been deeply engaged in for the last three years. I think you know from reading in the newspapers and/or from the communications you've had from Staff or with me, we've hit what I would call a bit of a bump in the road. Once litigation commenced between the law firm, The Law Foundation, representing the residents at the Buena Vista and the property owners, it got a little tougher to have a collaborative conversation around the table. I don't say that to lay blame on anyone; I don't say it to find fault. It's just in the real world the litigation process makes things more adversarial and less collaborative. I think that while things have gotten a little bit tougher, we're still in the mix in a very real way, and most of what we were able to pull together with your help, both the Council and the community and the Staff, is still in place. Before we hit this bump in the road, we had a commitment of \$29 million from the City and the County taken together. Before the bump in the road, we had a nonprofit partner in Caritas Corporation that was prepared to become an owner/operator and to continue to run the site as an affordable mobile home community. Before we hit the bump in the road, we had widespread community support as evidenced by the packed chambers that you've had here and the 500 or so folks who came to express their support one night; the two dozen former Mayors and Council Members, many of whom I had rarely ever seen on the same letter before; the dozen and a half School Board members including all five of the current members; the support from local newspapers of all persuasions, the *Mercury News*, the *Daily News*, the *Palo Alto Weekly*, the *Daily Post*. All of that plus the ability to do a tax-exempt revenue bond, all of that remains in place. While I'm taking a deep breath, I think it's important to keep in mind that all that is there. We are at a bit of a standstill in the negotiations while people are sort of sorting out how they want to respond to the litigation environment they're in. Just so you know, my office and I continue to be in conversation with all the parties including your own administration and City Attorney. I was on the phone just today with the owner, was in the owner's office just a week and a half ago talking about the current status. Since the earlier offer was "rejected," both the folks from Caritas and the current owner have sat down in my office to talk about where things stand. While there's a lot I can't share about the who said what to whom at which meeting, the conversations continue as recently as 10:30, 11:00 this morning. My goal right now is to get everybody back at the bargaining table if we possibly can, because that's where we might find a way to get to yes. I can tell you that Caritas submitted what I thought was a very strong offer to the owner. They continue to be engaged and would like to see if they can't make this work. Why don't I stop there on that issue? There's one that's just a little bit

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different, if you will, that I want to talk to you about. When I was in the Legislature—I'm sure each of you as Council Members has this experience and gets asked a version of this question—people would say how do you decide what it is you want to work on during the year, what's on your agenda. I had a pretty clearly defined process. At the beginning of every year, we'd say we want to work on some big issues, some compelling issues, because that's why we're here. We got asked to come and do the work. We face some big challenges, and that's our obligation. By the same token, you want to work on some things that are a little smaller, in part because not every problem is huge. There are smaller problems that are important to somebody out there. Also because some of the bigger problems can only be addressed incrementally. Also because frankly you need some small wins just to give yourself a little sense of accomplishment so you can tackle the next problem, whatever it might be. That being said, I also thought it was important to tackle some things where you kicked up a little dust and challenged the conventional wisdom. If you were saying, "How does Supervisor Simitian or previously State Assembly Member or State Senator Simitian figure out what he's going to work on," it's sort of let's take on some big challenges that need tackling, let's take on smaller things, and then let's find some ways in which we can sort of challenge the conventional wisdom. In that sort of latter two categories, as I have come back to the County government where I served from '97 to 2000 and then of course where Council Member Kniss served from 2001 to 2012, we have sort of a mantra in our office about how do you treat the public right. There just are a lot of opportunities to get it wrong during the course of the daily business. These are going to be small things, but I just sort of wanted to share them with you because they're something that we talk about in our office. You'll immediately know what I'm talking about. Voting. Everybody, we hope, goes to vote. You ask yourself, "Is that a process where we treat the process right?" It's a small thing, but the County exhorts us all to vote by mail if we possibly can. We get our vote by mail ballot in the mail. You've got to pay your own postage. God help you if you don't happen to know whether you've got the two-ounce packet or the three-ounce packet. If you do have the two-ounce packet or three-ounce packet, you have to remember what the postage is for three ounces, which I'm guessing very few of us do off the top of our head. Then, of course, you have to find that 91 cents just for the record that goes on the ballot. At that point, we're surprised that more people don't vote by mail as we would like them to or that they drop off their ballot at their local polling place even though they're vote by mail voters. As we talked about how we could do a better job at the Registrar of Voters this year, including the multimillion dollar technology expenditures, one of the things I said was what would it cost for us to pick up the tab for the postage. The answer was a relatively modest sum, a few hundred thousand dollars. Now, we're going to do that. In this November

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election, which won't be much, but in June primary coming in '16 and November and indefinitely into the future, when you get your vote by mail packet, it'll say postage paid. My hope is that that will be a small enticement for people to actually vote by mail, that we'll get fewer of those ballots at the last minute at the polling place. Mostly it just seemed to me it was a way to treat the public right. The flip side of that is all of you have been candidates, and I don't know if you've ever had this experience. I actually have. You fill out the forms, you pay your money, and you pay for a ballot statement. Inevitably somebody gets left out. Then the question is what happens if you're the person whose ballot statement gets left out of the packet. The answer is they do the best they can. They send the follow-up to the voters in the affected area, and they get sort of a special mailing. Of course, it's in one of those sort of manila-colored, government-looking, not very exciting envelopes, and they get tossed out. It turns out, believe it or not, that the people who had paid the thousands of dollars for their ballot statement to be in the published ballot handbook were then being charged even though their ballot statement hadn't made it into the handbook. Again, you just ask yourself, "Is that the way you want to treat people?" The answer is no, let's treat people right. Now, if you're one of the unfortunate handful who get caught up in that, there's a refund there. I hope it never happens to you. That's the preferred alternative. Again, different examples. A fellow comes up at sidewalk office hours and says, "I pay my \$40 fee to appeal my assessment, and then when they acknowledge that my assessment is too high, you keep my \$40 fee. How come?" That's a question to which there wasn't a very good answer. Ultimately, believe it or not, the solution is to just eliminate the \$40 fee, something that Assessor Larry Stone was happy to support. Again, it just didn't seem like we were treating the public right if we say we're going to charge you a \$40 fee to file an appeal, and then when we acknowledge that your appeal is well made, you're still stuck with the \$40. Many of these are small things. The library card that used to cost \$80. If you went to any of our libraries in the JPA, the Joint Powers Area here that we have, there's no longer a fee. It seemed a little unusual that if you were from Mountain View or Palo Alto and you went to Los Altos, they said, "Sure, you can have a card, but it's \$80." If you came from Los Altos to Palo Alto or Mountain View, they'd say, "Sure, we're happy to give you a card for free." Again, it's just sort of a question of treating the public right. With those not very monumental but nonetheless, it seems to me, small, important ways that we sort of say let's treat people right during the course of the day, plus transportation, plus Buena Vista, I'm sure there are other questions. I'd be happy to address any of those you'd like or just to hear from you on matters that are of importance to you.

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Mayor Holman: Thank you for all your comments and for your actions to make everything in our county, as much as you can, more equitable. Much appreciated actions. Vice Mayor Schmid.

Vice Mayor Schmid: I'd just like to kick off by thanking the Supervisor for coming. It's been enjoyable over the last few years to have these evenings. What I'm very impressed by is when we have these little conversations, we usually identify issues or problems that we are having vis-à-vis the County. If we look back over the last three years, he mentioned the transportation issue of getting some hard facts about where the money has been going. He mentioned the Buena Vista issue. We also had extended conversations about shelters in the north county, about vehicle habitation. I notice there's been follow-ups from the County of putting offices in the north county, of setting up a new habitation area in the north county. I want to acknowledge that a good Supervisor listens, goes and delivers.

Supervisor Simitian: Thank you. On the homeless front, I should just tell you, to sort of bring you up-to-date, the County as I think most of you know closed the Sunnyvale armory in 2013. To everybody's credit, there's actually a wonderful housing project including housing for folks of very modest means that is springing up on that site. It did leave unresolved the question of where those 125 people were going to put their heads down during the rainy and cold months, or what used to be the rainy and cold months, of December, January, February and March. Long story, and I'll spare you the details, but eventually I suggested that we really did need to find a replacement facility for those four months. We, of course, tried to do that in 2014 which was a very difficult year in terms of real estate and real estate availability, and could not come up with a permanent site. We cobbled together what I thought was a fairly good response last year, 2014, with a little expanded capacity down in San Jose for north county homeless population with some additional space in East Palo Alto with the folks at Project We Hope, with a little expansion of Hotel de Zink, and with the use of motel vouchers. All of that being said, we still did not really have a replacement for those 125 folks who used to show up at the Sunnyvale armory. We had an opportunity to observe the impact of that when the County did its 2015 homeless census in January of this year. The results were striking to me because the headline that many of you probably saw in the newspaper was homeless population down. Then I started getting the phone calls from folks in Palo Alto, Los Altos and Mountain View saying, "Our homeless population is up. What is that about?" If you looked at the second and third level of the numbers, what you realized is that there were about 125 to 135 fewer folks in the category of sheltered homeless in Sunnyvale because that facility had been closed. There was a corresponding increase in Palo Alto, Mountain View and Los Altos in the number of unsheltered

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homeless. It seemed to me to be a pretty clear indication that, as we had anticipated, folks were not going to find a place and that they would be unsheltered during those months. We had some recent back-and-forth in the City of Sunnyvale. The staff finally came and said, "We have a County-owned site. It's not ideal, but we think it would at least allow for a temporary facility for the wet and cold winter months." I think it would be an understatement to say that that selection was not well received by the immediate neighborhood. That, however, generated some conversation with the City of Sunnyvale. Ultimately, we settled on a site on Onizuka that is in the City of Sunnyvale that will be the location for a north county cold-weather shelter during the months of December, January, February and March. My hope is that that will give us a place that folks can find, access relatively easily, and it will reduce the number of unsheltered homeless. We need a facility in the north county. Your definition of north county depends, I've discovered, on where you live. Some of you will remember that former Mayor Gary Fazzino used to talk about south county. All of a sudden, I'd realize he was talking about Mountain View. I'd say, "Gary, that's Mountain View." He'd say, "Yeah, that's what I said. Mountain View, south county." Obviously, if you're in Mountain View, you don't think of it that way. Net, net, net, it's a regional problem. Going forward, at least this winter, there will be a shelter in place. We'll keep looking for a permanent site.

Mayor Holman: Council Member Kniss.

Council Member Kniss: If I can take the liberty of calling you Joe, instead of Supervisor Simitian, I'll start there. It's delightful to have you here. I'm probably going to ask slightly harder questions, even though I certainly support what Greg said and how responsive you've been. I greatly appreciate your efforts on the Buena Vista. That has been a thorny issue, and one that I think has given everyone a lot of pause. At the same time, I know you've continued to work on it with great zeal and energy. I even hear that from staff at the County, so I'm pretty sure that that's absolutely the case. Let me ask you about a couple of things, though, that certainly plagued us while I was at the County. One of them has to do with the BART and with the potential of putting the 25 percent on for BART. You may want to say a little about this. Both VTA and the Board of Supervisors were vying for the chance to put the measure on the ballot in 2000. You were there; I was in the audience. There was a discussion the other night when Carl Guardino was here about could the Board of Supervisors actually put this on the ballot. You may want to discuss it, you may not. One of the things that I discovered when I was there is that it was difficult with VTA to often insist on certain outcomes. The balance is very much in favor of San Jose. There were many times when those of us from the north end of the county were very frustrated by what happened in that area. One more thing, again, also

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that just kind of constantly trailed us when I was there was the Registrar of Voters and how that got handled and the number of times we've heard that our County does not handle the returns well. I was delighted to hear there's now enough money to actually put return postage on; that's very impressive. Maybe if you could comment on those two items which there will be an election very soon. In addition, I'm interested in where do we go with VTA, the Board of Supervisors and BART or high speed rail or whatever it may be.

Supervisor Simitian: Let me start with the transportation issue. As Liz's comment suggests, the potential for a measure to be placed on the ballot exists both at the Board of Supervisors and at the Valley Transportation Authority. It went on the VTA—excuse me. The measure in 2000 was approved by VTA at the time, because the Board of Supervisors at the time could not get a two-thirds vote in support of any one plan. Back in the year 2000, then Mayor Ron Gonzales of San Jose and Carl Guardino, who was the exec at what was then called the Silicon Valley Manufacturing Group, came to our Board with a plan. It was not a plan that generated support at the Board level. In fact there was one of five Board Members, Supervisor McCue, who said he could support it. The rest of us said we could not. This is in the, I'll call it, late spring of 2000. We were very clear with Mayor Gonzales and with the Manufacturing Group, theirs is not a plan we can support. If you're looking for support, you need to come back with a different plan. I will say coincidentally, one that had countywide congestion relief implications. A little time passed; that didn't happen. I picked up the phone and called Mr. Guardino at the time and said, "Clock's ticking. We're going to run short of time here. Is there another plan?" He said, "Since you all were the ones saying our plan was inadequate to the purpose, we thought you were going to come up with the alternative plan" Okay. I spent the better part of that summer pulling together a plan with help from transportation professionals in the County and came back with a plan that I thought really did provide meaningful congestion relief across the county. It would have required four votes to go on the ballot. It was a mix of both transit and roads and highways, because our Board is empowered to do that. We ended up getting three votes, Supervisor McCue, Supervisor Don Gage and myself, but we could not get a fourth vote. Interestingly and perhaps relevant to the comments that Liz made, the two members who couldn't support it were Supervisors Blanca Alvarado and Jim Beall, both of whom were from San Jose and had served on the San Jose City Council. Because we couldn't get four votes, VTA then became the venue. At the time, the law provided that VTA could only do transit projects; they could not put road and highway projects on the ballot. What you got in 2000 was a transit only, BART heavy package. That is why the results 15 years later are what we have shared with you. Fast forward now, 15 years, 16 years coming up.

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We're back at the same sort of decision point, which is who or which body will put something on the ballot. VTA is now empowered to put both transit and roads and highways measures on the ballot. That gives us a little more flexibility. We still have the two-thirds requirement at our Board, which would mean that four members of our Board would have to get to yes on a plan or a package. You're going to find it hard to believe, but it's really not entirely clear whether a VTA vote would require a simple majority, meaning 7 of 12, or a two-thirds majority, meaning 8 of 12. The answer to that question depends on who you ask and which legal counsel you use. That's an issue still to be resolved, but an important one. It gets more complicated because there's been some discussion, as you all know, about whether or not housing ought to be part of such a measure. While our Board of Supervisors, because we're not a transit agency, has the ability to do that, I think that's pretty clearly established, VTA not so much. They could probably accommodate a transit-oriented development package by virtue of saying there's a clear nexus between transit-oriented development and their transportation mandate. If they simply got into the housing business, I think that becomes a little thornier from a legal standpoint. All of that, to your point Liz, is made that much more complicated by virtue of the fact that San Jose is the big fat tail that wags the dog. Although I said that in the room, and somebody from San Jose leaned forward and said, "No, actually we are the dog." Again, it just depends on your perspective. In fairness, it's 60 percent of the county's population. That being said, if you get a package which can muster a 60 percent vote, that's fine but that's not enough to get to yes. I think it still remains to be seen which of the two bodies will move forward putting something on the ballot. There is always going to be a San Jose bias, and I don't mean that in a bad way. I just mean if five of the members of the 12-member VTA come from San Jose and the two other members from the Board are both former San Jose City Council Members, their frame of reference is San Jose centric. If three of our five Board Members come from San Jose and are former San Jose City Council Members, they're frame of reference is going to be San Jose centric. Just as when Supervisor Gage was on the Board from Gilroy, he's a former Mayor of Gilroy, he had a different view of the same map. It's just the nature of the beast. Stay tuned. I think there's quite a lively discussion right now. I gather you all were part of it about whether or not housing ought to be a part of the same package. My own concern, entirely apart from the policy debate, is that if we are not focused on the purpose and the benefits of a transportation tax, I worry that that lack of focus could cost us the votes that we would need to pass something that would benefit the county with meaningful congestion relief throughout the entire county. Why don't I stop there? On the Registrar of Voters, I think I can tell you progress is being made. That being said, the proof is in the pudding. I think I've got at least two or three clichés tossed out there in the space of 30 seconds.

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Money is certainly being spent. I've certainly been very clear, and I think my colleagues have too, with the Registrar that we're going to be into a kind of "no excuses" mode given the expenditures that are being made with respect to technology and staff. Some of this is fairly simple. Some of it's quite complex. My pitch has been do the easy part, take the low-hanging fruit. Some of this is not rocket science. One of the challenges, as I mentioned earlier, is that as more and more people have been turning in their ballots—excuse me, using the vote by mail process, the voting pattern has changed. It used to be people would get their vote by mail ballot, they'd fill it out, and they'd send it back. It would arrive at the Registrars and they'd have plenty of time to count it before 8:00 on election night, and they could announce the results. Now what's happened is too many people have been burned by last minute campaign events, and they've said, "I'm hanging on to it to see how the campaign goes." Then they walk it over to their polling place which means there is a huge flood of so-called vote by mail ballots that are not mailed at all. They show up sealed in their envelope, and they're a little bit labor intensive in terms of counting on election night. That's why things drag, it's one of the reasons, on and on. My hope is that the postage gambit will help people decide that they actually, if it's postage paid, can mail it. I also asked some fairly basic questions like how many shifts are we working? Two eight-hour shifts. There are 24 hours in a day, could we work three eight-hour shifts for just a week? Yeah, we could. Now, we will. I also asked some questions like I understand that even if we have the labor on board, we've got machines that have to count those ballots. Do you have enough people on election night opening those ballots and certifying the signatures to use up all of the capacity in the machines or are the machines sitting there underutilized for some period of the night? Yeah, they are sitting there underutilized for some period of the night. Let's not do that; let's have enough people in the room on that night. Some of these things are underway. The last thing I should probably tell you is I suggested and the Board has approved a management audit of the Registrar of Voters Office by the Harvey Rose organization. I see Mrs. Kniss nodding because she knows that the Harvey Rose organization is always a dog with a bone when you give them an assignment. I think that if there are lingering organizational issues, they will find them. I'm cautiously optimistic going forward that we're going to have a better result in June and November of 2016.

Council Member Kniss: Thanks. Very helpful answers.

Mayor Holman: Council Member Scharff.

Council Member Scharff: Thank you. I also would like to thank you for your service as Supervisor.

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Supervisor Simitian: Can I interrupt you for just a minute?

Council Member Scharff: Yeah.

Supervisor Simitian: I apologize. There was passing mention of the Buena Vista. Look, we're in a dire spot, but—this is going to be a little more candid than I probably should be. I've lived here since I was a high school kid. I have a lot of personal affection and attachment to this town. It has troubled me some over the course of recent years that we may have become a town that's really very good at articulating what it's against, but not so good at articulating what it's for. One of the really marvelous things that has happened in connection with the Buena Vista is that everybody has stepped up. While I appreciate the thank you's, really I would just sort of encourage you to think about the fact that everybody has stepped up. There isn't anywhere we've gone, and you all have been part of this effort, and asked folks to help where they've said, "Sorry. We're not interested" or "We don't want to help," whether it was your City Attorney and your City Manager, whether it was these nine Council Members, whether it was the elected or educational leadership, as I said earlier. I just think we're at a tough part in the negotiations. We're going to do our best to get through it. I just think people ought to take a little satisfaction and, dare I say, even a little pride in the way this community has pulled together to try and make this happen. Even a Council that doesn't always agree on issues of development, I think that's something to take home when your meeting runs too long tonight. I'm sorry for the interruption.

Council Member Scharff: No. Thank you for that. Hopefully we can continue on the "more candid than you should be." I guess my first question is high speed rail seems to be coming to the fore these days a little bit. We've all talked here about how difficult the grade crossing situation could be with high speed rail. I think we as Council have coalesced around the idea of a trench as much as possible. I guess the question is what do you see as a possibility of making that a reality and how we could—what's a way forward on that. We would lose—I don't know—I think it was 150-plus homes if we actually just do grade separation. You could imagine what that would be like in Palo Alto. If we go ahead and we push for grade separation money, and then suddenly 150 homes have to be taken, I can just imagine how that goes in Palo Alto. The trench seems the only practical political way forward and, frankly, the best for the town. I guess I wanted to ask you your feelings on that. I had three questions. I wanted you to talk a little bit about the Stanford trails issues and sort of where that money is, what Palo Alto should be doing. I'm a little concerned that we're not focused on that like we should be. My third question really comes back to the voting of VTA and the Board of Supervisors. One of the other options that we probably

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could put on is—I guess there's a 3/4 or some cent sales tax. One of the things Palo Alto could do is put on their own 1/2 cent measure, which would preempt either the VTA or the Supervisors if we did, say, a June ballot on that. I just sort of throw that out there as, if north county is not going to get what we need in terms of—what was your phrase? I want to make sure I get it right.

Supervisor Simitian: Meaningful congestion relief throughout the entire county.

Council Member Scharff: Throughout the entire county. We could at least get meaningful congestion up this way if we did that. If Mountain View put their own on for Mountain View and then say Sunnyvale did the same thing, we could do that. The Mayors could work together and we could probably work something out like that. I guess I just wanted your reaction to those three questions.

Mayor Holman: Those are the softball questions, and then we'll hit you later with air traffic.

Supervisor Simitian: On the issue of trenching, I think—a couple of observations. First is I think it is important, and I would encourage the City and the Council, when we talk about these issues, to talk about them in ways that resonate with folks beyond the boundaries of Palo Alto. These are not issues affecting only Palo Alto. To the extent we're talking about grade separation or trenching and that is thought to be a Palo Alto problem, then we shouldn't be surprised that Palo Alto doesn't have any friends and allies. To the extent that people understand that a job-heavy city like Palo Alto is trying to solve a congestion problem not just for Palo Altans but for tens of thousands of folks who come here to go to work or to enjoy the thriving Downtown or California Avenue, I think then it becomes easier to enlist support. I was going to say I don't mean to be flip, but I guess I do actually. It's one thing to be parochial; it's another thing to be seen to be parochial. I think if you have a parochial interest—there's nothing wrong with that. There's nothing wrong with saying, "Look, we've got a problem in Palo Alto and we're trying to solve it." I would encourage you to ask, "Is that part of a larger problem in which we can legitimately enlist the support of others?" I believe it is. There's congestion on Page Mill Road every day. I don't think that's an exclusively Palo Alto problem. I think you've got a lot of people there who would tell you that they're not Palo Alto residents, but that they are struggling with the quality of life and environmental issues that that congestion generates. That would be my observation. I don't have a point of view about grade separation versus trenching. I was as you know opposed to the 60-foot viaduct coming down the Peninsula, and that's no

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longer on the table. That's a start. I would encourage you to try and find other folks who have a legitimate interest and help them understand that their enlightened self-interest and your enlightened self-interest are perhaps overlapping. That's one observation I would make. Second issue was ...

Council Member Scharff: Stanford trail funds.

Supervisor Simitian: Stanford trail funds. I suspect many of you know, but no reason that folks in the public might know, ultimately Stanford University made the decision, going forward on the trail plan that they had, not to access County funds. The reason for that was essentially, in my understanding because I wasn't directly involved in the conversations, that County staff wanted to impose certain restrictions and expectation on the allocation of the funds that ultimately the University decided were more than they wanted to accommodate to access the funds. They said, "No. We've got our planning approvals. We'll simply go ahead without the funding, and we will leave the funding behind." That's what happened. That funding to the tune of about \$4 1/2 million remains unspent. You don't have to worry that it being spent without your knowing about it. It is sitting right there. At some point we will sort of roll up our sleeves and say, "It's time to talk again about how those funds might be well used." I know that there are some members of this Council who have opinions on that subject. Not to worry, it won't be something that happens quickly or without public notice. When the time comes, we'll say, "Let's go back to the drawing board and talk about how those funds might most appropriately and productively be used consistent with the fact that they are fees and, therefore, have to be used in a way that's consistent with the purpose for which the fees were generated." The third issue was ...

Council Member Scharff: The third issue was whether or not there's an alternative to the VTA and (crosstalk) Citywide consortium of everything from—I don't know—highway west of 85 cities, all the way up.

Supervisor Simitian: As you know there's a cap on the total sales tax rate that cities can impose in the county pursuant to State law. At some point you get close enough to that cap where it becomes an either/or, not both. I think that's what you're talking about. My hope would be that it doesn't come to that. That being said, one way to avoid that is to make sure that there really is a ballot measure that provides meaningful congestion relief throughout the entire county which would then give every portion of the county reason to say, "We don't need to do our own thing. We understand we're part of a larger transportation infrastructure. As long as our local or subregional needs are being met, we want to be part of that larger solution." When I pulled out the numbers that I referenced earlier for an analysis of

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prior sales tax revenues, how much had been generated, one of the things I asked for was where did they come from. One of the other things I asked for was what percentage of the vote did each district produce to get that necessary two-thirds vote. That startled and, I dare say, maybe even offended some of my colleagues. I said, "Look. I'm not saying that the Fifth Supervisorial District, which I represent, deserves 24 percent of the funding because we provided 24 percent of the votes that are necessary. I'm saying that if you don't provide a package that provides meaningful congestion relief throughout the entire county including the Fifth Supervisorial District, you risk not getting those votes which previously proved essential to the passage of these measures." The most recent tax, as some of you will recall, from 2008 passed with a margin of .1 or .2 percent, with 66.666 that's required. It passed, I think, with 66.8. It was a very narrow thing. The results were not known for weeks after. I've just sort of suggested, when people in my district—I know Palo Alto's numbers are different. For example, in my district I think 16 1/2 percent of the sales tax revenue has come from my district, but only about 5 percent of the benefit is coming to my district. When it's time to go to the ballot, it's just going to be hard for me to say to people that I represent, "Yes, you've been putting \$3 into the system and only getting a dollar's worth of benefit back year after year, but come on let's put on a show." That's going to be a little tough. All those things need to be in mind. You need to be mindful of equity. You need to be mindful of where the need is. You need to be mindful of where are there really good solutions that will benefit us all. You also need to be mindful of the practical political imperative. That was a long answer. The short answer version is I would hope it doesn't come to that, but maybe the threat of that is what helps us get a package that everybody can support.

Council Member Scharff: Thank you.

Mayor Holman: Council Member Wolbach.

Council Member Wolbach: Thank you very much for the work you've been doing on Buena Vista, on transportation and on a whole range of other issues that we probably won't have a chance to get to tonight. I just want to start by saying thanks. As a former staffer myself, I noticed your staff is here. I want to also say thank you to your staff, because I know that they work extremely, extremely hard.

Supervisor Simitian: Now you've made me look bad in front of my staff for not introducing them. Micaela Hellman-Tincher who is herself a Palo Alto product and works in my office on a range of social service issues, but is also our Palo Alto person.

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Council Member Wolbach: I think I might have mentioned this to you before. I might have started to sound like a broken record on it, but what I've identified, or at least my growing sense, is that the four biggest issues facing Silicon Valley and Palo Alto in particular, especially the big challenges that we really need to work on over the next decade and the next few years, because they're really generational challenges, you could put them into four categories. One being just inequality in general, which connects to the others. I would identify the others as housing unaffordability and inaccessibility; transportation which we've already spoken about quite a bit tonight; and also sea level rise along with other climate change threats, be it increased fire risks, economic destabilization, etc., but sea level rise and other flooding risks that we might even face this coming year, being a major challenge. If you have anything on sea level rise you want to mention, I'd love to hear it. On equality, as I'm sure you're aware, we're working to increase the minimum wage here in Palo Alto. We've set a goal of \$15.00 an hour by 2018; still need to work out the kinks in the details on that. We are committed, at least, to going to \$11 by next year. If you have any thoughts on the countywide and neighboring city efforts around minimum wage and how we can work effectively, if you see pros and cons or if you see any problem with Palo Alto if we decide to go a little bit higher than, say, San Jose, I'd be curious to hear that. There is a chance we might decide to go a little bit higher or a little bit faster than San Jose, which I feel is appropriate. It could be appropriate given the higher cost of living here. I also had a couple of thoughts about housing, but if you want to just jump in on those, feel free.

Supervisor Simitian: On the issue of sea level rise, I will just say I think now that the science is clear, at least in my view, and the impacts are demonstrable. I think part of the conversation has shifted appropriately away from how do we minimize our impact in terms of climate change and how do we adapt to the impacts that we're already seeing and feeling and that we can expect will grow greater with time. I think having both of those conversations at the same time is important. I don't think we can simply throw up our hands and say, "What's done is done. We're going to have to learn to live with it." By the same token, I think if we keep focusing on the larger policy debate and don't ask ourselves what are we going to do to make sure we're not living in a beachfront property here in Palo Alto, then we're going to have a problem. I see this shift in a lot of my work. I think it's a healthy development and I think, given how long it takes for things to happen in government, it's important that the conversation be happening now. I think it's going to take us a while not simply to do the physical things that will need to be done, but to sort of change the mindset about what does and doesn't make sense. On that front, let me just let it go at that. In terms of a minimum wage, this is an interesting issue in California. I mean,

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I think we all know that one of the reasons there are statewide minimum wage laws, in spite of the fact that we have a Federal minimum wage, is because the 50 states are very different. California is a high cost state. Fair enough. We've had a minimum wage law in California that exceeds the requirement of the Federal law. All of a sudden we realized this is not a small or homogenous state. We have a large state with many different economic regions and sub-regions. I will tell you as a member of the State Legislature I voted, I think, for virtually every minimum wage increase over the 12 years I was there, but I always knew that the minimum wage had more meaning and more impact in some parts of the state than others. I think it makes sense to be looking at this issue in what I'll call a regional way or a sub-regional way here in Santa Clara County. That being said, I don't think it makes sense to have 15 different minimum wage laws in Santa Clara County. I think business will legitimately express a concern about trying to do business in a place where the rules are different on one side of San Antonio than the other or one side of El Camino than the other. I think the notion of trying to find a consensus around a particular number and approach at a sub-regional or regional level makes a lot of sense. Do I understand that you could make a case for a higher minimum wage in Palo Alto than in San Jose or Morgan Hill? I do. I think at some point you just have to say, "We are a region or a sub-region." For Palo Alto again, I would always, of course, look over our artificial boundary with San Mateo County because I think a lot of people here in the north county are intimately involved with daily business in San Mateo County, and again the artificial political boundary doesn't have much impact in terms of the cost of living or the wages that are paid.

Council Member Wolbach: Thank you. Real quick on the housing issue. We could talk about the need for more supply at all price points and the need for protecting tenants from eviction or displacement as we've talked about with Buena Vista in particular, where to locate housing where it makes the most sense. If you have thoughts on any of those, love to hear them. The real one that I'd like to talk a little bit more about is homelessness. I would actually make the case that—I applaud all the work that you've been doing around trying to make up for the loss of the winter shelter. I would actually make the case that we should go much further. We've had some good examples of work in Palo Alto, partnerships with service providers, partnership with Hotel de Zinc. I'm curious about thoughts on potential for expanding that, maybe even including more, like we already have with that, safe parking spaces where you have case workers present. You mentioned San Mateo County; looking to San Mateo County and their commitment to making sure no child any time of year sleeps on the street through a program that can expand and contract as need arises and maybe even

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looking at our own Opportunity Center here as a good hub for service provision. I'll leave it at that.

Supervisor Simitian: I do not want to leave you with the misimpression that just because I mentioned the replacement for the cold weather shelter, that that is the only action taking place at the County. Quite the opposite. I think the last year or two folks have sort of stepped up and understood more fully the need to have a range of responses to the range of needs that are generally associated with what we call homelessness. I know this Council, because you've wrestled with this issue, as we did when I was Mayor 20 years ago, Mayor Holman understands. One of the areas—let me take a big step back. First, there was a large debate—I'm guessing Liz Kniss was right in the middle of it—a few years back at the County. There is an argument that goes like this. It's not about homeless shelters. It's not about providing a hot meal. If anything, these are just band aids, and maybe even worse, they're enablers. We really should take a housing first approach and get out there and find permanent supportive housing for people, and then try and wrap the services around them to make them successful. Let's stop dealing with these band aids. My view on that is yeah, that'll be great when we actually have 7,000 housing units and the supportive services that would go with them for the 7,000 homeless people who are out there every year in the count. Until that happens, we're going to continue to need emergency services. You have to deal with what's real and immediate and now, even as you're trying to take this longer-term big picture. It's a bit of an oversimplification. We all know in healthcare, preventative care is the best thing going, but that doesn't mean you close the emergency room. Until everybody's healthy, we're going to keep the emergency room open because we need it. The County has taken that view. We are looking at a range of solutions. We are, in fact, expanding the opportunities at Project We Hope, because there's a site there and with the infusion of County funds. This is reminiscent of my last go-round with using County funds outside the county. I remember when we had the Clara Mateo shelter at the veterans site in Menlo Park. People said, "You're spending County money out of county." I tried to say they're called homeless people because that's kind of an artificial boundary to them. I would say that again all these years later, now, as we're talking about Project We Hope. That's one of many different solutions. You know that the safe parking lots issue has come up again. We'll see where that one goes. I think it's likely to be tried on a very limited basis to see where that one goes. I do want to assure you that no one thinks that one four-month cold weather shelter is the end of the conversation. Quite the opposite. It's one that's important to our north county area in particular, because absent that, we have no significant shelter space here in the north county.

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Mayor Holman: Council Member Burt.

Council Member Burt: Thanks. In the interest of time, I'll just dive into a couple of thoughts. The first was around the meaning of meaningful congestion relief throughout the county. As I was thinking about it, we in Palo Alto and probably also in Mountain View have our existing congestion, but perhaps that's not our greatest threat. We've been dwelling on the future impact of significantly more trains, potentially doubling the number of trains on our tracks, and without grade separations, the potential for gridlock. From our standpoint, we're probably thinking about meaningful avoidance of future gridlock as opposed to present congestion relief; although, we certainly do have present congestion problems. I just wanted to make sure the framing of it was not defined around the present congestion problems, but the ones we are fearing the most which are anticipated future ones. Is that copacetic?

Supervisor Simitian: I'm right there with you. I got it, and I'm right there with you.

Council Member Burt: Good. One thing that came up this last year is we've been struggling to locate sites for our new police building, and one of the areas was parking lots in the California Avenue area. We had a brief discussion around the County Courthouse land. I think the perception is to some degree it's underutilized. The question was, was there any potential for a shared use of that land without trying to define what that is. Maybe it would be the City build a parking structure that would supply parking for both the County and the City on that land, or something along those lines. The response at the time was that that was kind of a non-starter in discussions. I wanted to ask whether there may be opportunities to explore more effective creative use of our adjacent lands and public lands and at least exploring opportunities.

Supervisor Simitian: I don't want to over-commit, shooting from the hip here. I'm happy to say, "Sure, happy to talk." I will say that I think as you have been on a decade-long search for a public safety site, you may have discovered what I have discovered, which is that one person's underutilized site is not necessarily underutilized in the view of the people who currently occupy it. We've got a particular challenge in the Courthouse area because of the relationship now between the courts and the State of California which is a little bit different than it was, say, 15 or 20 years ago. There are some challenges there that are real. The last thing I would say is we haven't talked about it a lot. We probably actually will talk about it a little bit more in the next six months. The offices that are directly across from the Courthouse, just off California Avenue, have been remodeled and are now

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being used by a host of service providers who are dealing with homeless issues, who are dealing with mental health issues, who are dealing with substance abuse issues. The hope and expectation, and I would say the experience, is that if you bring those services to bear literally across the street from the Courthouse, then you can more readily move into a treatment approach rather than a criminal approach in resolving some of these issues. In light of the tragedy we just had at the county jail with what was really a mental health issue being handled in a corrections setting, there's a lot to recommend that. All of that being said, always happy to talk if at some point your Staff wants to sit down and have that conversation. I would just caution, beware the notion of underutilization. It looks different depending on who you're talking to.

Council Member Burt: Thanks.

Mayor Holman: Council Member Berman.

Council Member Berman: Thank you very much, Supervisor, for all the work you've done and for taking the time to come talk with us tonight. You alluded to—I was also very impressed by—the pretty much universal support for the residents of Buena Vista and the efforts to try to come up with a solution that allows them to continue being Palo Alto residents. I was also impressed by the fact that, I think, as a community and as a region there's not much more widespread acknowledgement of the housing crisis we have and the impact that that's having on the poorer residents in our community. If we're successful with Buena Vista, this will save housing or preserve housing for 400 Palo Altans. As you noted, there are 7,000 homeless residents and thousands more just poorer residents who are being displaced by increased housing costs every day in Palo Alto and throughout the Peninsula. Obviously a lot of that has to do—a lot of the solution for that has to come from the City level and the State level which just happen to be two areas where you have a little bit of experience and expertise. I wanted to take this opportunity to get two free cents of your advice on long-term what you think both the City can be doing to try to help address the housing deficit that we have and what role the County might play in that that you think could happen.

Supervisor Simitian: Just remember, free opinions are worth what you paid for them, Council Member. One observation, and maybe it's just an encouragement. I do think when you're making modest incremental progress, it's hard to get excited about it. One of the things I would say about Palo Alto is on the affordable housing front Palo Alto has been making modest incremental progress for a very long time. When you look back over your shoulder and say, "Where did those thousands of units come from,"

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they came incrementally over time. I was on the Palo Alto City Council for five years, and I invested myself in three particular projects: Lytton IV which had at least two if not three near-death experiences on its way to eventual development; Alma Place which should be a case study for the Kennedy School of Government one day because that was a project that no one envisioned at that site and it took quite a bit of time and attention to bring the parties together and find out that they had a common solution if only they'd all embrace it; and the housing development on Page Mill that serves adults and young adults with developmental disabilities which I worked with a group of parents on. I played a smaller role in that one candidly than in the other two. You look and you think those are hundreds of units that now, for the last 15, 20 years and for decades to come will be there. That's one five-year snapshot. I would just say the small victories may seem small in the moment and you may reasonably say, "Really? I have to work that hard to get that result?" Stacked one on top of another, I think they are more meaningful than perhaps we realized in the moment. In terms of the policy responsibility, our County is a little bit different than other counties. In other counties, significant development takes place in the unincorporated county. As you know, in this county significant development is limited to, with the obvious exception of Stanford University, the incorporated communities. Our County has a much lesser role to play which is why, going back to Council Member Wolbach's comment, our role has been more focused on the homeless population and housing issues related to the homeless population broadly defined. At the State level, I wish I had more to offer in the way of solutions. What we've got in place is—the 20-year-old phrase "fiscalization of land use" is no less accurate today than it was 20 years ago. We've got a system in place that encourages Palo Alto to take jobs but not housing units. Understandably individual cities act in their perceived self-interest. We can't be surprised. I remember in the '90s, again when I was on the Council back in the day, Silicon Valley the region created six jobs for every unit of housing it created. We were surprised that there was a housing shortage or that there was a high cost attached to the housing that was available. Absent some meaningful changes in State policy, which are very hard to come by, I'm not as optimistic as I wish I could be looking forward.

Mayor Holman: Council Member DuBois.

Council Member DuBois: Joe, thanks for everything you do. I also wanted to say just thanks for making yourself so accessible. Really appreciate it.

Supervisor Simitian: Thank you.

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Council Member DuBois: I'd like to try to keep us on schedule, so I'll just say some quick comments and you can choose to reply if you want. I think meaningful congestion relief is a great phrase. I like it, but I think as we get closer to the election, it's going to help if you can perhaps help define it. I think people can hear whatever they want to hear in that phrase.

Supervisor Simitian: As Governor Brown would say, we need to tangibilize that phrase.

Council Member DuBois: I've personally been trying to focus on Caltrain trenching. I think it's pretty critical. One thing, I think you made comments on BRT. I mean, do you see that as being funded by this sales tax?

Supervisor Simitian: I think most of the Council Members know BRT, Bus Rapid Transit. There is a proposal from the VTA staff to put dedicated lanes for Bus Rapid Transit up and down El Camino Real from Palo Alto down through Mountain View, Los Altos and Sunnyvale, and south from there. I don't see it being funded by a transportation tax, let me start there. My worry—thank you for reminding me—is that the continued push for Bus Rapid Transit and a dedicated lane will alienate potential supporters for a transportation tax. I've said that once or twice. I don't think the VTA staff is as sensitive to that possibility frankly as they could be or should be. I sit on one of the more obscure bodies, the Policy Advisory Board for El Camino Real Bus Rapid Transit. In 2013 and '14, it was a great assignment because the group never met once. Now, however, things have heated up. At the last meeting, I asked—Mr. Wolbach sits on the same body—I said, "Let me just go through the four cities that I represent, Palo Alto, Los Altos, Mountain View and Sunnyvale. Do any of them have a majority of their Council Members who have voted to support this?" The answer was no, no, no and no. Mountain View's a little bit tougher because they had a 3-1 vote on a seven member Council, so a simple majority but not an absolute majority. I have consistently said, "You have a project underway on Santa Clara and Alum Rock to do Bus Rapid Transit. Why don't you finish it and then let's see how it works?" Right now, I don't think the public is prepared to accept the modeling and the data as significant assurance that this thing won't simply be a tremendous boondoggle that once it happens, it's hard to reverse. The Staff is disinclined to take that view. I think that it would be unwise to push ahead. I think that not only would it be unwise in terms of the net result for Bus Rapid Transit; I think it has the potential to take \$6 million worth of congestion relief and shove it aside, if you have a group of folks who are unhappy with the VTA decision-making process.

Council Member DuBois: One last quick one. I'm really interested in some kind of vehicle habitation kind of managed overnight parking. You

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mentioned safe parking; I'm not really familiar with that. Do you see an opportunity for maybe a countywide managed overnight parking program? Could the County maybe help cities coordinate?

Supervisor Simitian: I think the possibility is there. We're starting to have that conversation. I think you'll see a pilot in San Jose first, and then we'll see how it works. This Council probably knows better than any council in Santa Clara County how fraught that issue is. I think it's too soon to have a conclusion. What happened here in Palo Alto grew somewhat organically, which is another way of saying without any real structure in place. I think the question is if that wasn't a satisfactory approach, can it be a satisfactory approach if there's some structure in place and if the site is right which is obviously the question in each case.

Council Member DuBois: Thanks.

Supervisor Simitian: Stay tuned.

Mayor Holman: In addition to thanking you for setting aside the time to come visit with us this evening and to address these really minor issues that have simple solutions, I did want to ask you about one that hasn't come up but is on our list. It's no less complex than anything else we've talked about already, and that's about air traffic. It's a very large issue in our community and many other communities. Is there anything that we are not asking you as our Supervisor and the Supervisors to do on the behalf of residents in our county to help alleviate the impacts that we've been experiencing?

Supervisor Simitian: I don't think so. I talked with Congresswoman Eshoo about this some months ago and asked what our County might do to be helpful. What she said—initially it's a little counterintuitive—was pass a resolution urging the FAA to step up. Ordinarily you don't really think of passing a resolution expressing concern or asking for help as a particularly meaningful gesture. I think she was very wise, because what she went on to say is, "If I can get a resolution of support for this effort from the three counties" that she represents, San Mateo, Santa Clara and Santa Cruz Counties, then when she sits down with the FAA, she can rebut the assertion that will come which is someone from the FAA will say, "Isn't this really just some spoiled suburbanite"—let's just say it out loud—"who's a little bit cranky about airplanes flying overhead?" She can say, "No. Actually I've got official action from three different counties with 3 million residents telling you that it is a problem." We took that action at our Board on my motion a couple of weeks back. We have shared a resolution. I know you have done the same here at Palo Alto. As I said, ordinarily resolution passing may not seem like a particularly effective gesture. It may seem to be just a gesture.

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In this case, I really do think it helps if we give our congressional representative essentially some ammunition to help her make her case when she sits down across the table from the FAA which she has been doing and which she and I have a chance to talk about from time to time.

Mayor Holman: Is there any progress anticipated that you can speak of?

Supervisor Simitian: In terms of dealing with the FAA?

Mayor Holman: Mm-hmm.

Supervisor Simitian: I think I would refer you to Congresswoman Eshoo's office on that. She's better positioned to give you a direct report than I am. I think the first step is to get somebody's attention, and I think she has the FAA's attention, and I think that's a good thing. I think the second step is to convince them that the problem is real. As I said, I think that's where getting the support from different communities. I would encourage you as you talk to your colleagues and other local city councils, if they haven't taken similar action, encourage them to do it. Truly it's the breadth and depth of the concern that she's able to demonstrate that is going to be critical in her being able to make the case that this is real and not just an isolated complaint or two.

Mayor Holman: Fair enough. Thank you very much. Before we bid you adieu this evening, we do have two members of the public who care to speak to you this evening. The two speakers are Herb Borock and Omar Chatty. You will each have three minutes. The yellow light will not come on; I'll time you by my phone here.

Herb Borock: Supervisor Simitian, Mayor Holman, Council Members, good evening. Supervisor Simitian (crosstalk).

Mr. Borock: Great. You had mentioned and Council Member DuBois had mentioned Bus Rapid Transit as a possibility in the transportation funding measure. You had also mentioned housing. I believe it's possible from a VTA standpoint that they see a linkage between the two in the sense that, I believe, there is State money available. I think it's cap and trade funds through Sustainable Communities money where Bus Rapid Transit would be one of the things that would—criteria that would give a higher weighting for people applying for those funds. While the VTA may not want to put housing directly into a transportation measure, they may be motivated to put Bus Rapid Transit in funds for this end of the county for those who feel it would be worthwhile to redevelop and intensify development of parcels along the route on El Camino for housing. There's some Council Members who feel it's better to place that housing next to train stations rather than along El

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Camino. Whatever insight you might be able to provide—I know you've already said you don't believe that would be in the interest of those who want to pass the measure to include that in there. I had thought that VTA actually was considering money for BRT in the transportation measure. Thank you.

Supervisor Simitian: Thank you.

Mayor Holman: Next speaker is Omar Chatty, and to be followed by Stephanie Munoz.

Omar Chatty: Hello. If you could give me, like, a one-minute signal in lieu of the yellow, I'd appreciate it. Just so I don't run over.

Mayor Holman: I'm using this, so there won't be a yellow light.

Mr. Chatty: Okay, all right. Mr. Simitian, I'm very disappointed in your attack on the so-called imbalance equity on the BART situation. In 2008, Mountain View and Palo Alto folks in your district voted by two-thirds, as you indicated, for BART, strictly for BART, despite the Council here being deadlocked and despite Yoriko Kishimoto ...

Supervisor Simitian: Sir?

Mr. Chatty: Yes, sir.

Supervisor Simitian: Let me just ask as a favor, please don't wag your finger at me.

Mr. Chatty: Oh, I'm sorry. I apologize. (crosstalk).

Supervisor Simitian: That's okay. Trust me, we'll have a better conversation. Thank you.

Mr. Chatty: Yeah, no, I apologize for that. I know ...

Supervisor Simitian: That's all right.

Mr. Chatty: ... that's a problem. Anyway. I would ask you to consider BART around the Bay, please. We've got 30 miles to go. We've got 15 miles of it already grade separated and elevated. We've already made that investment. Thirty miles by every calculation I've done—I've been in transportation advocacy for 35 years—is about the same cost, believe it or not, when you take away the Dumbarton and everything which is another killer train. This train here is out of date. You can't make it much longer. If you look to the future, please, with BART you get dual direction capability

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and capacity. If there's an incident, you have the redundancy you need. BART carries 430,000 people already. If we go to Washington to lobby for money, it's a lot better to say we need money for BART just like Washington is getting money for Dulles, LA is getting money for Century City. We can do that. Now we go back to Washington, and really we're advocating for high speed rail and Caltrain. Caltrain is high speed rail, because they're the same track size. I would ask you, please, let's make that very visible. I congratulate you on reversing your stand from a few years ago when you ran. Now you can get some campaign funds from the monied interests behind high speed rail. It's very unfortunate, but you had to do it. Otherwise, they might run a candidate against you, which we saw here at Palo Alto. We can talk about that later. Jackie Speier said at the Golden Gate Bridge barrier dedication it's the obligation of public officials to protect the public safety and health, which you know. Look, this train is out of date. This fortress Caltrain that we're building out here is just perfuming the pig. It's just making vacuum tubes that much better for the future. We need to go to integrated circuits. You get everything you need with BART, but we need a leader just like Ron Gonzalez led before. I would ask you to please consider that. Trenching, if trenching is a solution, let's make the trenching wide enough so in the future BART can use that same trench. Okay? Or whatever the future thing is. It's a better use of the space. We don't need 60 feet. You're going to need three tracks. I believe that the blended solution won't work, but I would ask you to check with the Federal Railroad Administration to see if they accept four trains, different train speeds with three operating entities using it. I'm not sure that'll work on two tracks. I think we're going to need three, which we might as well make it BART. I would ask you as the Board of Supervisors person, VTA does what VTA wants which is very unfortunate. They just pulled funding for Pacheco Pass when they had another major accident the other day. There are too many accidents on that road. Palo Alto's been affected with people here who have been injured or killed. Please, put some pressure on VTA to remember they had the funding lined up and they decided to pull it. I don't know if it's an equity issue ...

Mayor Holman: Mr. Chatty. Mr. Chatty, time's up.

Mr. Chatty: ... or what. Thank you very much.

Mayor Holman: Thank you. Stephanie Munoz is our final speaker this evening. Welcome.

Stephanie Munoz: Good evening, Supervisor Simitian and Mayor Holman and Council Members. I was astonished to hear that VTA had an interest in housing. Who knew? Last week, we all discussed the property on Page Mill

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Road and El Camino where VTA has had a parking lot and you can get the newspapers anytime. The people stood up and gave a very great presentation for why they wanted a big office building. Every single one of the Council Members said, "We don't really need office buildings on that site. We need housing." Council Member Kniss said, "I think we have to ask about Public Facility zoning. Certainly people when they buy Public Facility zoning don't expect that they're going to have to keep a parking lot on it." They decided that they would talk about that. My question is why didn't VTA put housing on it in the first place, because now where we are is those people think that they're not going to be able to build a project. We really should buy it or get them to build a project that has housing in it. That would work out very well. I ask you, didn't they even think because when you sell it cheap, because it's a parking lot, and then the City gives it a upgrade, upzoning, it's now more expensive. It's a lot more expensive to buy for us. Why did you sell it? Excuse me, why did VTA sell it? We think of VTA as a surrogate of the County. Even if you might think of them as a separate entity, it still seems to us that it's a County effort and that you ought to be concerned with—I don't want to say put your money where your mouth is. I want to say the practical thing is to get that housing in. Thank you, Supervisor.

Mayor Holman: Thank you. Do you have any final comments you care to make?

Supervisor Simitian: I do just want to clarify a couple of things. There was a lot to unpack in some of those comments, and I won't try. I do want to just clarify a couple of things. For those who are not aware, the VTA is a separate legal entity. Only two of the twelve members on their governing board are members of the County Board of Supervisors, Supervisor Cindy Chavez and Supervisor Ken Yeager at the moment. That was a decision that the voters made decades ago. Some probably think it's proved wise, others perhaps not. It is well and truly a separate legal entity that makes its own set of judgments and choices. With respect to BART to San Jose, I just want to be very clear about something. I support BART to San Jose. I supported the 2000 measure. I voted for it; I endorsed it; I campaigned for it. As you all heard me say earlier tonight, I want to actually set aside 25 percent, but a cap of 25 percent, of the funding that would come from such a transportation tax to finish the BART to San Jose effort. I supported BART to San Jose 15 years ago; I still support BART to San Jose. I don't support BART to San Jose at any price and at the endless expense of meaningful congestion relief throughout the entire county. That's a distinction that I think it's important to make. The last thing, just because it hasn't come up, one of the things that Council Members and some community members exhorted me to keep in mind last year when we were all together was the

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opportunity for County to provide some additional support to many of the various social service agencies and nonprofits that serve folks in Palo Alto and in surrounding areas. We had an opportunity to do that. You will remember I teased a little at the time that the County was going to tell everybody to talk to Palo Alto, and Palo Alto was going to tell everybody to talk to the County, and what they should really do is come at us both and make their case and that hopefully they would be heard. We were able to find modest amounts of funding, but for the most part funds that were helpful in this last budget cycle. That was a direct result of the conversation we had a year ago. If you wondered do the conversations matter, ask the folks at the Palo Alto Junior Museum and Zoo who will now be doing expanded outreach and bringing folks there as a result of some modest county funding. As the folks at Ada's Café who are going to be able to stretch a little bit more and do some work with the County funding that they got. Ask the folks at the Avenidas facility in Mountain View actually, where they will partner now to do, I think, even more for seniors who need senior daycare during the course of the day. Those are just three of probably a dozen different items. They all grew out of the conversation we had here last year. I just sort of wanted you to know that that did not fall on deaf ears, and that in fact there will be very real and very tangible benefits as a result of the conversation you started then. Thank you. I'm going to get out of your way, and let you get on with your business. I'm going to take my wife to dinner and generate some sales tax revenue for the City of Palo Alto, Mr. Manager. Thank you.

Mayor Holman: Thank you and nice (inaudible). Thank you, colleagues. We will now go to Agenda changes, Additions and Deletions.

Agenda Changes, Additions and Deletions

Mayor Holman: Knowing of none, we will move on then to City Manager Comments. Jim.

City Manager Comments

James Keene, City Manager: Thank you, Madam Mayor, Council Members. I have a number of things to report tonight. David, I don't know if you guys are going to be able to ... Public Art Master Plan first of all. The Public Art Program is hosting an exciting, free, lunch-time event this Thursday, September 24th from noon to 1:00 p.m. with artist Anthony Discenza in the Council Community Meeting Room. Bring your lunch or drop by to hear him discuss some of his previous work and the development of his Palo Alto installation *Questions About Your City*, an installation of 20 intriguing street signs meant to stimulate conversation about various issues Palo Alto is

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currently facing. Then Discenza and the Public Art Staff will lead a brief walk to tour several of the signs. That's this Thursday, the 24th. Also as part of the Public Art Master Planning outreach efforts, artists Peter Foucault and Chris Treggiari, the Mobile Arts Platform, have already gathered input from more than 100 people on how artists might make Palo Alto a more vibrant or livable city. Look for them. During September and October, these artists are traveling across Palo Alto on two custom-built bicycle trailers and setting up pop-up mobile art-marking and idea-generating spaces in multiple locations. This Thursday, they'll be at Town and Country Village from noon until 3:00 p.m. and outside Antonio's Nut House on California Avenue from 4:00 to 7:00 p.m. Friday, they'll be at the Moonlight Run and, Saturday they'll appear at the Community Health Fair at the Mitchell Park Community Center from 11:00 to 1:00 and then move to Cubberley Community Center for the remainder of the afternoon. You can see the pictures up there of the cool little bikes that they've got. People fill out things and they take your picture. Saw them at the Palo Alto Art Center last Friday. Speaking of which, on Friday the Art Center held an opening for their fall exhibit called *Front Yard/Backstreet* that featured a number of artists including Joel Daniel Phillips who's done several portraits of Buena Vista residents in pencil that are really amazing. I would suggest—it's going to be there until December—if you get a chance to go by and take a look at it. Very personal, really amazing drawings of residents and the homes that they have created at Buena Vista. The Staff there will be working to bring some of that work to City Hall after the show ends in December. As well as the debut of *This is Happiness* which is a Palo Alto map created by exhibiting artist Kate Pocrass from the input of more than 350 community members in Palo Alto. There's a copy of the map at your seat, I'm told. We will be making them available soon at various locations including City Hall. Finally, there will be a going away party for *Aurora*, the tree that has lit up City Hall Plaza for the past two years, this Saturday night from 6:30 p.m. to 8:30 p.m. as Public Art Staff and Commission make way for the installation of *Rondo I*, a piece by Bruce Beasley that will be installed this fall as part of the Public Art Program. The awards keep coming in for Mitchell Park Library and Community Center. The San Francisco section of the American Society of Civil Engineers has just awarded Palo Alto their Community Improvement Project of the Year Award for Mitchell Park Library and Community Center. The San Francisco section actually covers half of the state, from the Oregon border to Fresno. We were in the mix with projects ten times the size of Mitchell. Our having achieved the highest LEED rating for sustainability, Platinum, and the great visual effect of the buildings were key factors in their decision. Many thanks, once again, to our design team and our own Staff who worked so hard on this cornerstone project in South Palo Alto. Over the past two years, the efforts of our Public Works Department have paid off when we were informed last week by the American Public Works accreditation team

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that our Palo Alto Public Works Department will be recommended for accreditation. The next step is for the six-member board to concur with this finding, and we will receive a letter confirming that we've been accredited by the American Public Works Association. We will be the first Public Works Department in Silicon Valley to become accredited. There will be lots of opportunities to celebrate this achievement, which our Staff is rightfully proud of. A formal presentation by the accreditation board is at an upcoming Council meeting. We add that to our efforts on improving our pavement condition index and all the infrastructure projects and the GreenWaste programs and enhancements, and just a raft of great things that are happening in Public Works. Similarly, volunteers of Acterra and our Staff cleaned trash from three of our main Palo Alto creeks this past Saturday as part of the California Coastal Cleanup Day, at San Francisquito, Adobe and Matadero Creek. A kayak and two canoes helped the team get hard-to-reach trash in Adobe Creek this year. Hundreds of pounds of trash of every kind imaginable was painstakingly removed. Thanks in large part to regulatory restrictions adopted by our Palo Alto City Council, the number of plastic check-out bags and take-out restaurant Styrofoam containers has been dramatically reduced, but other types of plastic foam persist. Staff will be bringing Phase 2 of our plastic foam ordinance to Council in November. Look at the pictures up there. You know it, but it's worth reminding those of you who may be running in it. The 31st Annual Moonlight Run at Baylands Athletic Center, Friday, September 25th at 7:00 p.m. at the Baylands Athletic Center. A couple of other items. Lots going on actually. Our City is partnering with the YMCA, the Stanford Children's Health, Lucile Packard's Children Hospital and other local not-for-profit agencies to host the 2014 Palo Alto Community Health Fair, September 26th. That's Saturday, at the Mitchell Community Center with Mayor Holman kicking things off with remarks at 9:50 a.m. The Health Fair will run until 3:00 p.m. and will include multigenerational activities including one-on-one sessions with Stanford physicians, talks on heart health, juvenile and adult diabetes and nutrition. Participants can learn more about local health services, visit the safety town exhibit, participate in interactive exercises, attend a bike and helmet demonstration and many, many more things. The 2015 Community Health Fair is part of the City Council's Priority of Healthy City Healthy Community that you adopted this year as an area of special focus. Sunday, September 27th, from 10:00 a.m. to 4:00 p.m. marks the 80th anniversary of the Palo Alto Airport. Palo Alto Airport Day will take place this coming Sunday. The annual event is organized by the Palo Alto Airport Association, and the annual event attracts 3,000-5,000 visitors. Parking and admission are free. The 20th anniversary of the Great Glass Pumpkin Patch features thousands of hand-blown glass pumpkins crafted by more than 30 prominent glass artisans and will be on view from September 29th through October 2nd and for sale October 3rd and 4th at the Palo Alto Art Center. One more

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thing to put on your calendars. Thursday, October 8th, from 5:00 to 9:00 p.m., experience Downtown anew during the Meet the Street event, an opportunity to connect with local merchants and enjoy an evening of food, fashion, music and more. The action will take place on Ramona, Emerson, Waverley and Bryant—we'll be closing the streets there—and will include food tastings, live bands, fashion shows, music in the streets and a whole lot more. For a listing of all the activities and business participating in the first ever Meet the Street, go to cityofpaloalto.org/meetthestreet. I know we have a lot of tough, big issues on us. I know sometimes people raise some questions about the *This is Happiness* map project, about do we really have time for happiness in Palo Alto. It looks like lots of darn good reasons to, just over the next week. Finally, we'll have a detailed report coming to Council and ultimately the public in response to concerns Council Members and other members of the public, Catherine Martineau and others have raised about the condition of street trees and watering in the City. Our Staff has been working in response to those concerns about a plan for an immediate response, not holding off until later as we were talking about it. We'll be working on a news release, lots of different information and workshops and ways to identify troubled and problem trees and have a plan for response. Look for that coming from our communications Staff this week. That's all I have to report.

Mayor Holman: Thank you for that. I'm sure many members of the public and Council as well will be looking forward to and appreciate that last comment especially. I should have reminded you, until I forgot myself. You mentioned the award that the Mitchell Park Library has received. We also have an award coming to the Rinconada Library. Did you want to mention that?

Mr. Keene: We have a California Preservation Society Foundation Award for the rebuilding of the Rinconada Library. I guess I didn't mention this before. There were sixteen awards given out across the entire state. Palo Alto, 1 of 484 cities, got three of those awards. One for Rinconada Library, one for the Sea Scout Building and—help me with the other one, Mayor.

Mayor Holman: The Eichler office at (crosstalk).

Mr. Keene: That's right. The Eichler office redo down at Embarcadero, 101 Embarcadero. Great, 3 out of 16 in a city of 66,000 people. Pretty compelling.

Mayor Holman: Not bad. Thank you very much for that and for all of your comments. We now move to Oral Communications.

Oral Communications

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Mayor Holman: I have two cards from members of the public. You'll have three minutes apiece. Stephanie Munoz to be followed by Becky Sanders.

Stephanie Munoz: Good evening again, Mayor Holman and Council Members. If we are going to have a health forum this coming Saturday, that's a wonderful idea. I think there has to be a little keener understanding that when people talk about the problems with the health system, they are really talking about the problems with the financing of the health system. The sad fact is that this little industry of health remediation is carrying water for the finance industry. Everybody's health needs, everybody's health visits are all being funneled through insurance investment companies. A certain portion of what we spend for health actually goes not for health, but for financing. People have to understand that, because it's making a big difference in our economy and to the people. Once you had the very first medical bankruptcy, that should have been the wake-up call that things were not going well. I hope that there will be an opportunity for healthcare for all California or physicians for a national health service will be able to table, that is, to give out leaflets in support of single payer. You might also consider that the wonderful hospitals that we have in our vicinity, Stanford and El Camino, are making a lot of money. Yes, but they're also producing a need for housing that they should be called to account for and would also be to their interests to provide cheap housing for fairly low paid employees and some of the higher employees too. Thank you very much. I hope you will consider that.

Mayor Holman: Thank you very much. Our second speaker to this item, Oral Communications, is Becky Sanders. Welcome.

Becky Sanders: Good evening. I have a couple of members of the new Ventura Neighborhood Association with me. Would you please wave? Anybody else? We're super excited that we have our first official action, 14 signatories to a letter which I handed to the City Clerk, which will be made available for your inspection should you so desire. We, the undersigned members of the Ventura Neighborhood Association, respectfully urge the City to reinstate traffic controls at the north/southbound intersection of Page Mill Road and Park Boulevard. The intersection used to have a signal that pedestrians could activate that would flash to alert cars of their presence, but this was removed at the beginning of the construction of 195 Page Mill Road. Furthermore, the sidewalk on the construction side of the road was demolished and the bike lane severely restricted, with construction traffic often monopolizing the bike lane during business hours. In fact, we have seen an electronic sign that urges cyclists to use caution obstructing the actual bike lane. Finally, the intersection has no street lights. At night it is difficult to see pedestrians and cyclists that are not attired in reflective wear.

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This route is designated a bike boulevard. It is used extensively by bicycle commuters, train commuters and high tech employees. Additionally, it is one of the only routes in and out of our neighborhood due to the limitations imposed by the train tracks. It is essential that this route be safe and useable by all of these modalities. We believe this intersection is extremely dangerous for pedestrians, cyclists and cars. It is a free-for-all that has given rise to many harrowing close calls and near misses. Once construction concludes on 195 Page Mill and traffic increases, this already dangerous condition will get worse unless appropriate safety measures are taken. Such measures include stop signs, a traffic light, enhanced striping or other pavement markers, street lights, flashing pedestrian signs, among so many other things. We urge the Council to take immediate action. We would like to support and participate in the City's plans for implementing changes that will effectively reduce the hazards plaguing this grossly unsafe intersection. Thank you for your kind attention to our concerns and to our request that you remedy this situation. Respectfully signed by Jonathan Brown, Angela Dellaporter, Chris Donlay, Marty Douglas, Kate Downing, Steve Downing, Frank Flynn, Kirsten Flynn, Emily Matthews, Guy Matthews, Bill Moss, Andreas Ramos, Rebecca Sanders and Pearlin Yang. Thank you very much. Please think of something to help us out.

Mayor Holman: Before you leave the speakerphone, Council Member DuBois, did you have a question for the speaker?

Council Member DuBois: I just wanted to let the speaker know that next week the Park Boulevard Bike Plan is coming to Council and it has a lot of elements you're talking about, so please take a look at that and come back if you can.

Ms. Sanders: Thank you very much.

Mayor Holman: Thank you. With that, Council Members, we go to Consent Calendar.

Consent Calendar

Mayor Holman: We have three items on Consent Calendar. You'll note that at places we have a memorandum regarding Item Number 3. Vice Mayor Schmid.

Vice Mayor Schmid: Move approval of the Consent Calendar with the corrections on Attachment E, Attachment D and the fourth sentence of Attachment D.

Mayor Holman: And the inclusion of Attachment E, correct?

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Vice Mayor Schmid: Yes.

Mayor Holman: Looking for a second.

Council Member DuBois: I'll second.

Mayor Holman: Motion by Vice Mayor Schmid and second by Council Member DuBois to approve Consent Calendar with corrections as noted.

MOTION: Vice Mayor Schmid moved, seconded by Council Member DuBois to approve Agenda Item Numbers 2-4 with changes to Agenda Item Number 3- Adoption of Resolutions and Agreement With State of California... as outlined in the At Places Memorandum.

2. Resolution 9545 Entitled, "Resolution of the Council of the City of Palo Alto Approving an Assignment, Assumption, and Consent Agreement With J.P. Morgan Ventures Energy Corporation and Mercuria Energy Gas Trading LLC."
3. Resolutions 9546 and 9547 Entitled, "Resolution of the Council of the City of Palo Alto and Agreement With State of California Allowing City of Palo Alto to Participate in California State Board of Equalization Program to Collect the Utility Users Tax on Prepaid Mobile Telephony Services."
4. Approval of Contract No. C16159137 With QLM, Inc. in the Amount of \$243,356 for Monroe Park Improvements (Capital Improvement Project PG-11002).

Mayor Holman: Vote on the board please. That passes unanimously with all nine participating.

MOTION PASSED: 9-0

Mayor Holman: Our next item on the agenda is an Action Item.

Action Items

5. PUBLIC HEARING - Adoption of a California Avenue Retail Preservation Ordinance to Amend the City's Zoning Code and Zoning Map to Extend the Retail (R) Combining District Beyond California Avenue; Establish Regulations and Review Procedures for Formula Retail Uses and Certain Personal Service Uses (i.e. Hair and Nail Salons) in the R-Combining District and Changes to the Provision for Grandfathered Uses in the R-Combining District. The Planning and Transportation Commission has Reviewed the Proposed Changes and Recommends

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Approval. This Ordinance is Exempt from the California Environmental Quality Act (CEQA) Pursuant to Section 15061(b)(3) and Section 15305 of the CEQA Guidelines.

Mayor Holman: I will leave the rest of the description to Staff, but in brief this is adoption of a California Avenue retail preservation ordinance. Staff will have a presentation to make here shortly.

Jonathan Lait, Planning and Community Environment Assistant Director: Thank you, Mayor. Good evening, City Council. This is a draft ordinance, the first reading of a retail preservation ordinance that addresses formula retail on California Avenue and some other regulations to the nearby areas. The Council may recall that this was a conversation that probably goes back to 2014 where there was some initial discussion about retail preservation in general, but also specifically to California Avenue. More recently on the 18th, the Council directed Staff to—they had a public meeting, heard some comments and testimony from area residences and businesses expressing some of the concerns about changes to the neighborhood character on California Avenue, the introduction of formula or chain retailers and the perceived proliferation of hair and nail salon facilities on California Avenue. It was at that time that the City Council gave Staff direction to prepare the draft ordinance that's before you this evening. Along its journey, we did stop at the PTC for two public hearings. After their deliberation, which is included in the Staff Report, the Commission recommended supporting the proposed amendment that's before you. Based on that direction, the ordinance principally addresses three main issues. One is to regulate formula retail, hair and nail salons on Cal. Ave.. It expands the R Combining District to Cambridge, Park Boulevard and some portions of El Camino Real. It adjusts the nonconforming use regulations that apply to the R Combining District. The Staff Report notes that there were some other items that the City Council had asked Staff to take a look at. Respecting the Council's interest in returning quickly, we deferred some of those other items that we thought would take more time or require more resources. A list of those actions are included in the Staff Report. I'll just briefly go over the three main components of the ordinance. The first one having to do with formula retail. We wanted to start off by defining what formula retail is. It is a use, whether its retail, restaurant, that has a contractual obligation to meet certain defined criteria. Notably, the way that we've defined it, one would have to have ten or more of these types of locations in the United States. There's no magic in ten; that can be a discussion of the Council. The PTC discussed it and concluded that ten was an appropriate number. Once we defined what formula retail was, we wanted to go about setting forth a process to review that. The recommended process is a conditional use permit. This is a permit that is reviewed by the Director and is subject to a

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request for hearing. If a request for hearing is received, it goes to the Planning and Transportation Commission and then on to the City Council. In this chamber, there was public testimony and the Council discussed as well wanting to have meaningful findings, that this would not be some perfunctory review for approval. We believe that we achieve that objective with the findings that you can find on Page 6 of the draft ordinance. With respect to expanding the R Combining District, the area shown as purple or pink, however it shows up on your screen, that central portion is the existing R Combining District as it exists today. The green hatched representation is how the draft ordinance is presented to you today. Notably, it excludes PF zoned properties, the one PTOD property on Cambridge Avenue, and some PF zoned property on Cambridge Avenue. These boundaries were presented to the Planning and Transportation Commission. There was some conversation about Cambridge, but ultimately the Commission thought that the boundary was appropriate and reflected the Council's direction. Finally, with respect to the grandfathering provision, the way the Code reads today a building that is nonconforming may be demolished and rebuilt in a manner that exists today. What the proposed ordinance does is require when a building has been demolished or substantially remodeled, it would require a conformance with the R Combining District, so ground-floor uses, retail, personal services or restaurant type uses. This is a provision that is only in the R Combining District. I just wanted to make a note about when we were coming up with this language, we added a couple of terms. One has to do with substantial remodel. Should the Council move to pass this ordinance, when we return with a second reading, we would want to make some non-substantive clarifications to the ordinance to describe how we would calculate 50 percent of the building and what we mean by some structural members which is referenced in that definition of substantial remodel. There was one letter that was received from a property owner who happens to have a pending project on Cambridge. The commenter requested that Cambridge be excluded from the expansion of the R Combining District. If that's not the direction that the Council is heading, at least a modification be made so that non-retail-related uses could occupy the rear half of the lot. The commenter also proposed some draft language that the Council may want to consider. Staff has looked at that and, if that is the direction of the Council, we would like to recommend some alternative language for the Council's consideration. That concludes Staff's report. Thank you.

Mayor Holman: Thank you very much for that. We have four members of the public who would like to speak to this item. You'll each have three minutes. We have Steve Pierce to be followed by Jessica Roth. If you'd come forward when you hear your name called, that would be helpful. Steve Pierce.

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Public Hearing opened at 7:56 P.M.

Steve Pierce: Madam Mayor, members of the City Council, I'm Steve Pierce, a long time resident of Downtown North. I am, yes, the applicant for a project on Cambridge. I've looked at this ordinance in sort of great depth to see how it would certainly affect us as well as the area that we're involved in. I'd say at outset that I am very much in support of protecting our small retailers. I think the intrusion of chain stores, I think, does that. The portion of the ordinance that I do not think is going to render the kinds of results that people are hoping will occur is really the extension of this R overlay onto Cambridge. Before I sort of dig into why I don't support that, if it is the desire of Council to pursue this nonetheless, I would suggest some modifications to the ordinance. Jonathan has suggested one that I put forth. The buildings on Cambridge tend to have 100-foot depths. Those depths are really too great for retail, particularly the small retail that is desired. Therefore, I suggest that non-retail uses be allowed on the non-street-facing portions of Cambridge. Secondly, I think we need to have carve-outs as the ordinance is unclear about parking on the first floor as well as lobbies to second floor office space. If we do pursue it, those are changes I think that would make this work better. With respect to why I can't really support extending retail onto Cambridge, it's really for a number of reasons. Retail is kind of a unique use. It's really not one of those things where you can say zone it and they shall come. Retail really needs a lot of really sort of nuanced things to be able to locate. Basically Cambridge is not a good retail location for a number of reasons. From a retail market standpoint, it is not. Retail needs a critical mass. It needs retail on the right, retail on the left, retail across the street; that's how it works. That's why University Avenue works, Cal. Ave. works. That's why shopping centers are set up the way they are. There's a critical mass. Right now the notion is if we extend it in there as we get buildings that are remodeled, they'll be required to have retail, so organically retail will have to occur there. This really doesn't work with retail. A retail user is going to look at a building with offices on both sides and parking lots across the street and say, "This is not a place I can survive." That's why organically it doesn't work. That's why, like I say, Downtown where you've got solid zoning, it really does work. If you can beg me another couple of moments.

Mayor Holman: If you could just wrap up though, quickly. Thanks.

Mr. Pierce: Sure. Another thing we need to consider too is the buildings there are really suitable. I did a little survey. About 85 percent of the buildings were built as office buildings, do not have store fronts, etc. about half of those were built in the last 15 years. They're not going to convert. They're not going to be remodeled. Now, what we're down to is small

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pockets of potential. Again, that doesn't give you your critical mass. Thank you.

Mayor Holman: Thank you a lot. Jessica Roth to be followed by Larry Skarset, I believe it is. Good evening.

Jessica Roth: Hello, Council. Jessica Roth, business owner on California Avenue. Thank you for your time tonight. I'm here to encourage you to adopt the ordinance to limit the number of formula-operated businesses on California Avenue. Also, I just want to clarify that we want to limit them, not exclude them. I was pleased that we received full support from this project from the PTC. I also wanted to remind you of the petition that we sent around about a year ago and received over 700 signatures from neighborhood residents and customers that supported this ordinance. There are a lot of great examples of other cities that Staff has shown. They've had great success. I hope that we can continue the success of something like this in Palo Alto.

Mayor Holman: Thank you. Larry Skarset, I'm sorry if I mispronounce your name, to be followed by our final speaker, Stephanie Munoz.

Larry Skarset: Good evening, Mayor Holman. I just want to say a few things. I guess I'm one of the retail small businesses involved in this California Avenue. I've been a small business barber for—I can say I'm 69 years old. I've been—21 years old. I love this City. I've been here since I was 21 years old. I just kind of hate to see—I know this is changing. Maybe, like Mr. Pierce says, maybe that's not a great retail, but it's been good to me. I'd just kind of like to see the City kind of—I don't know. It's changing too fast. I like to see the changes, but it affects me. I hate to see some of the small businesses being taken out. It'll affect me.

Mayor Holman: Thank you for taking the time to come. Stephanie Munoz is our final speaker.

Stephanie Munoz: Thank you, again. I'll try to be brief. It sounds really good. It sounds as if you're going in the right direction. What I would like further is to see if there isn't some kind of a law that would have saved Cho's and Know Knew Books and some other retail establishments that give the flavor to Palo Alto, which we've lost. It's kind of too bad. When people have a piece of the valuable land, they're never content to have the same old little bitty thing. They always want something bigger, and they're always going to ask you if they couldn't have something bigger. I wonder if you could stipulate that they keep the little whatever it is and if they do that, they will be allowed to increase. They will be allowed to increase in the form of medium or low-range housing, not offices. I think that might solve a lot

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of problems. I hate to be touting something like a panacea, but I really think that there hasn't been enough of the City telling people what they would really like. I think that you have a certain agreement—I heard it last week—about what you would really like. I think you could just sort of reverse the public benefit process. Palo Alto could tell the developer what it would like in exchange for having something bigger, instead of having them try to figure out something that would be an adequate payment. Thank you. Bye.

Public Hearing closed at 8:04 P.M.

Mayor Holman: Thank you. Council Members, let's do five minutes questions and comments, and then we'll see if there are motions. I have no lights yet. Vice Mayor Schmid.

Vice Mayor Schmid: Just a couple of technical questions. I was surprised with the sentence that the PTOD area was excluded. I thought the whole California Avenue was a PTOD District. Why is a certain piece of it singled out as a PTOD?

Mr. Lait: Thank you to Director Gitelman for a little guidance there. It's my understanding that the Cal. Ave. area is eligible to be zoned PTOD, but there's only the one property on Cambridge that has been zoned PTOD.

Vice Mayor Schmid: It has to be the application of the owner to ask for it ...

Mr. Lait: That's my understanding.

Vice Mayor Schmid: ... rather than the City having a request or requirement?

Mr. Lait: That is my understanding.

Vice Mayor Schmid: Second thing. There was a paragraph in there about tenancy, that with a change in tenancy you had the ability to require ground-floor retail. Just from an economic point of view, a change in tenancy is the only way that a property gets revalued and becomes much more valuable for the City and the School District and the County. This seems to create an incentive to reduce changes in tenancy. Is that one of the considerations you looked at?

Mr. Lait: I just want to make sure I understand the question. What we're stating in the ordinance is that we are not requiring a conforming use upon change of tenancy. If you have an office, it could be replaced with an office.

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That's how the ordinance is drafted. Is your question then why wouldn't we make it a conforming use?

Vice Mayor Schmid: I guess I read the paragraph to say that was one of the things you were considering imposing.

Mr. Lait: If I can further sort of vet this out. The Council had asked us to explore the possibility of when there is a change of tenancy to require that tenant space to become a conforming use. What we're asking is—that's not addressed in the ordinance that's before you. We believe that requires a little bit more time to compare that to other nonconforming provisions of the Code. We just also wanted to make sure that we weren't in some way creating a problem for the property owner from a legal perspective. Perhaps, Albert or Molly can speak to the legal part of that.

Vice Mayor Schmid: Good. I guess the only thing I wanted to add to that is when the Staff looked at it, they would ask the question, does this create incentives to maintain tenancy, which would be, economically speaking, that perverse move.

Mr. Lait: Understood.

Vice Mayor Schmid: The last question I have is just given the fact that there are a lot of issues up in the air that will be decided almost on a case-by-case basis of how many franchises there might be there, of what kinds of businesses might be there, would it call for a review, a periodic review say in five years, of just sitting down and saying, "Is this working?"

Mr. Lait: I think that's fair. With any ordinance, you want to make sure that the intent is being achieved. I think that's appropriate.

Vice Mayor Schmid: I guess, one of the things you note in the retail is things are changing so quickly. Certainly, in five or ten years you might have different perceptions. Thank you.

Mayor Holman: Council Member DuBois.

Council Member DuBois: I'm just curious. I guess, one of the things that was deferred was opaque windows on the ground floor. Why was that a difficult one?

Mr. Lait: It was not so much that part, but the second part of the motion which was to apply that provision to existing businesses. That's the part that would have required a little more time to explore. How do we get

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existing businesses that may not be retail or didn't have that requirement, how do we get them to comply when they're legal nonconforming?

Council Member DuBois: I guess, for retail is that required?

Mr. Lait: Yeah. On Cal. Ave., we have the pedestrian overlay, so a new use coming in would have to meet those pedestrian requirements. We do have kind of a ongoing issue that we're trying to address now having to deal with sort of on the inside of a building, curtains. It's an ongoing issue that we're looking at right now.

Council Member DuBois: Looking at this map on Page 7, I guess, the one that excludes the zone and doesn't exclude. Maybe you could just tell me—there's one here that's just a blank white space. What is that one?

Vice Mayor Schmid: Post office.

Mr. Lait: Are we looking ..

Council Member DuBois: On Cambridge, right in the middle.

Mr. Lait: ... at the PF zone or across the street from the PF zone? The bigger white space?

Council Member DuBois: It's kind of a square in the middle of Cambridge.

Mr. Lait: I believe that is ...

Vice Mayor Schmid: Post office.

Council Member DuBois: It's not a ... Sort of about where your mouse was there.

Mr. Lait: This area?

Council Member DuBois: That's a parking lot. The next one down. That right there.

Mr. Lait: The one I'm on right now is a PC zoned parcel. That is 420 Cambridge. That's existing PC zoning. I believe this parcel—I mean, I believe that's the Post Office.

Council Member DuBois: The notch at Park Boulevard, looks like the Courtyard.

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Mr. Lait: That is another PC zoned property. The two PC zoned properties are the one here on Park—I believe it's 2701 Park—and then there's this one over here at 420 Cambridge.

Council Member DuBois: What's the thinking about excluding those if they were to redevelop under the terms of the ordinance?

Mr. Lait: The reason Staff suggested pulling out that zoning is because PC zoning has its own requirements. I can pull the ordinance here. They have their own requirements. I believe one of them—the one up here on Park—has a restaurant and multifamily and, I believe, maybe some office space. It's mostly a multifamily building. We didn't think it was—we would really want to apply that provision to it. Also, it's got the PC zoning, so the restaurant was approved, and a new restaurant would have to occupy. We didn't see the value of adding the R Combining District to that. I'd have to just quickly take a look at my notes of the other PC zoned property.

Council Member DuBois: Again, I guess it's more about redevelopment of a building under that zone, if it was a substantial reconstruction.

Mr. Lait: The one up here or ...

Council Member DuBois: I'm just saying in general in terms of the ordinance. I think Council Member Schmid started to ask about the PTOD District. It really wasn't clear to me why we'd want to exclude that. You kind of said that the current PTOD already requires retail, so why not just include it instead of excluding it?

Mr. Lait: This is great. This is for the Council to have this discussion. That's why we raised it in our report. I will note that the ordinance for the PTOD—excuse me, that is 420 Cambridge, the PTOD—has the following limitations, and I'm reading from the ordinance: the development shall be a mixed-use project comprising of ground-floor retail, personal service. Then there's this provision about green design and sales uses with residential on the upper floors. We have an ordinance already in place that is achieving what we would be achieving with the R Combining District. That's the only reason why we excluded it.

Council Member DuBois: Sorry, one more question and then I can come back in a later round. On our definition of retail, we still have records on there. We also have antiques. Could we just pick one of the two?

Mr. Lait: Yes.

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Council Member DuBois: More seriously, on personal services I actually don't have a specific suggestion right now, but I'd be curious if Staff thought that that definition was broad enough.

Mr. Lait: We've worked with it over the years. We do have some informal ability to make some interpretations where we think something is similar to or similar to a personal service use. If there was some more descriptive information, that would be helpful for us, if the Council had some other ideas of what that would include.

Mayor Holman: Council Member Kniss.

Council Member Kniss: I think picking up on some of Council Member DuBois' comments, I want to talk for a bit about formula retail. I'm a bit troubled by it, so I'm not even sure ten is the right number or 20 is the right number. I don't know. I just did a little looking up on Google while we were going through this. There are 1,900 FedEx locations in the U.S. I don't know how many Pure Barres there are; I'm not even sure I'm saying that correctly. Maybe it's Pure Bar. I think that's probably more independent. I can't find Aveda salons, but I know there certainly must be many of those. Benjamin-Moore Paints, there are so many it didn't list them. Starbucks just in the U.S. has 11,563 outlets. Pizza Studio, I don't know about. Counter has a great many, but it was difficult to, again, count them. There are fewer of the Counter, and they tend to be more California-oriented. Subway is all over the country. Somehow, it seems to me as though we ought to be pursuing types of formula retail rather than simply saying we will limit anything that has either 10 or 20 outlets somewhere else. Did we look at that? Was that something Staff looked at? I didn't see that discussed in the Minutes from the Planning and Transportation. I'm saying I think variety may be more important than number. There are some things that are not listed here. You've got a coffee place. It's not my coffee place, but that is the coffee place on Cal. Ave. Do you understand my question? You're looking at me with some puzzlement.

Mr. Lait: Let me answer it this way, and you tell me if I understand the question. We've looked at California Avenue. By our count, there is eight or nine chain stores by our definition.

Council Member Kniss: You've listed them here; they're on packet Page 91.

Mr. Lait: What we've heard in our outreach efforts from those who have participated in the workshops is that there is concern that what a chain store brings to a neighborhood in terms of its character—that speaks in part to diversity. There's also a concern that we heard expressed about the mix of uses and the diversity. It was clearly evident that there's an interest in

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having a better diverse range of uses. Some of the concerns that we're hearing about the food serving places that we have there, is that they cater toward an afternoon crowd. I believe that there is something, to your comment about wanting to have a diversity of uses, but I'm not quite sure how we would approach that from a formula retail perspective.

Council Member Kniss: Let me give you a specific example. I happen to be a Pete's Coffee customer. Let's say one wanted to go in on Cambridge where there's retail. They certainly have more than ten outlets, probably more than 20 outlets. Do we automatically say no even though it's a good retail use and probably would attract a lot of customers? I don't need you to answer all of these. That's one of the things that I think we need to answer. I'm concerned that if we have a very pat answer to formula retail which says if there are more than ten of these stores anywhere or more than 20 of these stores anywhere, we're not going to consider it. It would seem to me as though it would make far more sense to look at whatever our balance is on the street. For many of us, FedEx is a pretty handy place to go. I'm not quite sure what I would do if it wasn't on California Avenue, to be honest. I'm not particularly married to any of the rest. I like Subway, but there are many Subways that are around. I think it's good for a variety of reasons. It's one of the issues that I'd like us to consider as to whether or not it really makes sense to have it that prescriptive.

Mr. Lait: Mayor, if I can just respond to just two of those comments? In your illustration about Pete's on Cambridge, this would not apply because formula retail would not be regulated on Cambridge. It would only be regulated on California Avenue. With respect of fulfilling a need, that is the way that the findings have been drafted on Page 6, I believe, of your ordinance. It's not intended to be an automatic yes or no to any formula retail use that wants to come in, but an opportunity to hear—a discretionary process to hear from the community about yes, this is a need that we don't have and that that this would fulfill it. Alternatively, this is a need that's adequately represented and we don't need another chain store to provide that additional service.

Council Member Kniss: Which gives us some latitude.

Mr. Lait: Yes.

Council Member Kniss: Good. Thank you. I wanted to make sure we aired that, because I was rather amazed to see how many FedEx and how many Starbucks there were in the U.S.

Mr. Lait: I don't know how many there are.

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Mayor Holman: Council Member Scharff.

Council Member Scharff: Thank you. I had a couple of questions here. I guess the first one was Steve Pierce came to the mike and raised the issue of the depth of retail frankly. I actually thought he had a good point, depending on the depth of the store. I didn't necessarily like the 50 percent. I mean, if it's a 30-foot-depth store, you probably wouldn't want retail at just 15 feet. Did I hear you correctly when you said Staff had a suggestion on that issue?

Mr. Lait: Yes. If the Council were interested in on Cambridge permitting non-retail use on the back half of the parcel, we've drafted some language.

Council Member Scharff: It's not the back half for me. It's that there is a particular depth that retailers would use for stores. First of all, they only want to pay for a certain amount of space. I don't know what that is off the top of my head, but it's not the back half. I mean, it depends on how wide a building it is obviously. Right?

Mr. Lait: Yes.

Council Member Scharff: I mean, have we looked at what different retailers need? I mean, what does your average retail store look for? I'm sure a retail broker could answer those questions. I wish I'd looked it up, but I didn't. Has Staff got any sense of that or no?

Mr. Lait: No. I think it's variable for different retailers.

Council Member Scharff: Staff just basically had a back half or what ...

Mr. Lait: Yes, the rear 50 percent roughly.

Council Member Scharff: The other question I had was on the existing formula retail. When I read the Staff Report, it talked about that they suddenly would become nonconforming because they wouldn't have a conditional use permit. That's the way I understood it. Would we have the authority to just grant all the existing formula retail conditional use permits when we pass the ordinance?

Mr. Lait: That's not the way the ordinance is set up. They would just be declared nonconforming ...

Council Member Scharff: No, that's not what I'm asking. I understand how the ordinance is set up.

Mr. Lait: You want to know if we can just grant them ...

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Council Member Scharff: If we gave you direction tonight and said, "I move to approve the ordinance as drafted but we want these changes. We want all existing formula retail when the ordinance is given to have a conditional use permit so that they're not nonconforming," would that be an issue or not? Can we stop my clock?

Molly Stump, City Attorney: Thank you, Council Member Scharff. It looks like we might need to work on the vehicle by which we would accomplish that policy goal. It looks like something would be able to be done with the existing uses.

Council Member Scharff: When we started this, I'm sort of with—Jessica, I apologize if I put words in your mouth. What I understood you to say is we don't want to get rid of formula retail on California Avenue; what we want to do is limit it to a certain percentage. I see you nodding, so I'm glad I'm not putting stuff in your mouth. That's sort of my vision of it. We don't want it to be all formula retail; we want there to be a mix of uses. What this does suddenly is it basically implies that all formula retail is nonconforming. I think that's a mistake. I have concerns about that. I'd like to see the existing retailers get a conditional use permit. I also wanted Staff to walk through—I guess it's on Page 6 of the ordinance which is the criteria that Staff's put in here on how you would look at a formula retail issue. I guess I say to myself—I'll use Council Member Kniss' example. Let's say a Pete's does want to open up on California Avenue. Let's say, for whatever reason, Starbucks closes their location, and Pete's decides they want to come in. When you walk through these criteria, the first one you hit is the retail personal service business will offer merchandise or services that meet the underserved needs of the City's residents and visitors. You could make the argument that Printer's Ink is a café right across the street and, therefore, it's not underserved. You could also make the argument that a lot of people really like Pete's. Therefore, if you're a Pete's drinker, it's underserved. I'm not sure what Number 1 really adds to this, other than allows anybody who thinks that there's any sort of competition from any sort of formula retail to argue that that shouldn't be allowed on the street based on the conditional use permit. I want to know if Staff had a reaction to that.

Mr. Lait: In that specific example, a Pete's could replace a Starbucks. There's nothing about this ordinance that would ...

Council Member Scharff: Because the conditional use permit would go with the—if you don't have a conditional use permit for the Pete's, you could do that.

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Mr. Lait: That's right. A legal nonconforming use could continue and be replaced. Let's take another site that doesn't have an existing formula retail and a Pete's does want to locate there. The very nature of a discretionary application is that there are some subjectivity based on it. What we try to do is craft some findings, which are the ones that you referenced, to provide the decision maker some guidance. That process also includes a forum for the community that people who live in the area, who do have businesses in the area, to send comments to the City and offer some of their perspectives. It may be that another coffee shop doesn't tip the balance. Two or three more could. I think part of it is a case-by-case review based on the findings. The answer is there is some subjectivity, and that kind of speaks to what Council Member Kniss was referring to. There's some latitude there.

Council Member Scharff: There's five things here, five different findings. Are there reasons why those five findings were chosen as opposed to other findings? The popularity of people showing up and speaking for something and speaking against it. Is there a reason why it doesn't go to Council as opposed to having the Director make the decision? I want you to just address that and then I'm done.

Mr. Lait: I'll start with your last question first. The way it's set up for conditional use permits. Those are reviewed and approved by the Director. There's a 14-day notice that we send out to a 600-foot radius. If there's anybody aggrieved with that decision, they can request a hearing. That hearing is before the Planning and Transportation Commission. The Planning and Transportation Commission would then ...

Council Member Scharff: When you say aggrieved, any citizen can do it?

Mr. Lait: Yeah, let me double check that.

Council Member Scharff: Including a Council Member? Say a Council Member doesn't like it, a Council Member can file it and have it come to Council?

Ms. Stump: We'd have to look specifically at that. It presents some special issues.

Mr. Lait: Then any recommendation from the PTC goes before the City Council. Then, in that case, the City Council would be the hearing authority on that. As far as these five findings, I believe in our May 18 report we surveyed a number of cities. We've looked through those findings, and we handpicked the ones that we thought were most helpful to Palo Alto. We layered on top of that our own perspective. What these five represent is sort of the universe of findings that are out there in some model ordinances,

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if you would, or applied ordinances. We looked at it with the idea of—through the Palo Alto lens, if you will.

Council Member Scharff: Thank you.

Mayor Holman: Council Member Burt.

Council Member Burt: First a couple of clarifying questions. Is it your intent to have all of the characteristics that we were describing for California Avenue carry over to Cambridge, in the expanded area? I can give you an example. Personal services, limitations on personal services or formula retail on California Avenue. Is it your intent that those would apply to Cambridge?

Mr. Lait: No.

Council Member Burt: Cambridge would allow personal services without limitations?

Mr. Lait: Correct.

Council Member Burt: The formula retailers could also go there without restriction?

Mr. Lait: Correct.

Council Member Burt: I just want to clarify. There seemed to be some ambiguity as to whether we're trying to rid ourselves of formula retail. That's not the intention. It's to prevent formula retail from overwhelming California Avenue, to have a right balance between formula and local retail. I think that others can confirm that. I just wanted to make sure that that's well understood. I did want to talk about this issue of the back portion of retail, whatever portion that may be. We don't want to require deep retail where it's not needed or where it would not be valued. I have a comparable or an equal concern that we are hollowing out our retail in many circumstances. The new building—I think it's 250 Cal. Ave.—that has a large storefront; it's still vacant after six or nine months. Only the front, at most 40 percent, of that building is retail. Historically it was retail service all the way back to the alley. We didn't have anything that prevented that from occurring. Then most retail businesses have storage and office space that is serving their business. What we've seen Downtown, we used to have basements that served those functions. They're being converted to Class A office in some circumstances. I think that's a real problem because the effective retail space is being shrunk as a result. I think we need to consider that. That's the same thing here. I want to make sure that in—if we look at

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not requiring full depth of retail for the entire depth of the parcel, we at the same time don't start just shrinking the effective retail. I don't know where that balance is. Jonathan, have you looked at what seems appropriate in that regard?

Mr. Lait: Not with respect to the precise percentage. Part of this was guided by the commenter's letter, who's also a real estate broker I believe. I think the suggestion of the back half kind of came from that. Barring any other information, that was kind of a starting place. I will add though that on Cambridge, there really isn't a lot of retail now. Unlike Downtown where you might be taking away, on Cambridge what we're trying to do is add more. I don't know that it's—I just throw that out there as a possibility.

Council Member Burt: I don't have perfect answers. I know that Larry's shop, the front half is a barbershop and in the same open space, the back half is a salon. It goes, I think, all the way to the back of the parcel. That's actually one of the tenants in the very parcel that Mr. Pierce was talking about. Next door to it, in the same parcel is office space and not retail. Would we come out ahead if we required all the storefront to a given depth be retail and we allowed office at the back? Perhaps. I will say that in that very building we see examples of where retail all the way to the back works. Maybe not the highest revenue for the building owner, but it works. On the other hand, maybe we've got an example also where the retailers would do better by all having street-facing. I don't want to see it like we have at 250 Cal. Ave., where it's 60 percent of the former retail has been hollowed out. I think that covers my questions and comments for now. Thanks.

Mayor Holman: Council Member Wolbach.

Council Member Wolbach: First of all, I just want to frame my questions and my thoughts by saying I think that actually—I was looking back over our original motion. Eating a little bit of humble pie, I think Staff and PTC did a really good job with what we gave them. It wasn't the shortest, simplest motion ever. I commend that work. I think that now that it's come back to us, I think we definitely have some questions, and I'm glad we're having this discussion. I don't want to say I'm getting cold feet on the general concept, but there are definitely some tricks and some nuances. I'm kind of inclined to look for ways we can make sure we're doing this conservatively, not putting ourselves in a case of having some unintended consequences. I had some friends and family and a couple of constituents contact me today, saying, "Sorry, we're ahead of this issue, but I'm worried about losing our hair salons." I'm thinking about I actually go to a dentist on Cambridge, and I want to make sure this doesn't—that we're not going to force out any of the businesses that are there. I want to make sure that all the existing

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businesses can get a permit, conditional use permit, whatever, that's not challengeable basically.

Mr. Lait: Barring what may come of a motion to have all the business obtain CUPs, I would tell you that there's nothing about the ordinance that's before you this evening that would require presently any existing use that is conforming today, that is rendered nonconforming as a result of this ordinance to somehow be having to go through a new regulatory process or change their operation or go out of business. None of that stuff would take place.

Council Member Wolbach: Thank you for clarifying that. Reading through it, I was getting the impression that an existing business that is on Cambridge, that is not retail—for instance, is dental, there are a few dentists, there's some hair salons and stuff that aren't really considered retail. My understanding was that they would have to apply for a conditional use permit. Thank you for ..

Mr. Lait: Allow me to clarify that. On Cambridge, the same deal. If they're existing today and the building doesn't change and it's demolished or substantially remodeled, all those uses can continue today and would be able to continue after implementation of the ordinance. If the building gets substantially remodeled, major renovation, demolished, then if the R Combining District is extended to Cambridge, the ground-floor uses would have to be retail, personal service or a restaurant.

Female: (inaudible)

Mr. Lait: No, it'd have to be one of those three categories of uses on Cambridge. If we extend the R Combining District to Cambridge, what we're saying is we're extending the retail, the personal services and the restaurant requirement on the ground floor.

Council Member Wolbach: That actually does concern me a little bit. Let's say a property owner does want to redesign their building. Maybe they want to add a little bit more housing, which you all know I'd be in favor of, or they want to add something else that we would be happy with seeing there. Maybe they're willing to offer through the process, the remodel, whoever is currently there on the ground-floor that is not retail an opportunity to stay. I want to make sure that they're not lost. I don't know if it's possible for us to amend this to make that possible. That's kind of where I'm thinking about going. I don't want to kick anyone out basically. Again, I don't want to prevent an opportunity for somebody to do something better with their property there, which would have benefits for retailers there, if there's improvements in properties, that would then have the effect of kicking

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somebody out of their current space. Right now I'm not making a motion or anything, just kind of putting out there for clarification from Staff and also letting my colleagues know where I'm thinking right now.

Mr. Lait: If a property owner is concerned that Cambridge cannot support more retail or to the retail depth of the lots that are there, there could be some apprehension about redeveloping the parcels. If we were to consider the approach that has been discussed in some contexts, where the rear half or the rear portion, whatever that percentage is, is allowed to be a non-retail use, that would at least create an opportunity for the dentist or whatever the use is to potentially stay. It may be less discouraging for some to discourage redevelopment of a site.

Mayor Holman: Council Member Filseth.

Council Member Filseth: I just wanted to follow up on a question that Council Member, or a thread that Council Member Scharff pursued a minute ago, the discussion of a conditional use permit versus legal nonconforming. What's the difference in practice? What does it imply?

Mr. Lait: The legal nonconforming use would be a use that was established at a time it met the Codes, and then the Codes change. It was legally established, but now it's nonconforming for lack of something. In this case, lack of a CUP. That's what the legal nonconforming status ...

Council Member Filseth: If we give that person a CUP, does—what are the constraints on these? It prevents you from remodeling or ... Which is better?

Mr. Lait: Let's say we're the Counter restaurant, chain store. I wanted to continue operation. This ordinance goes into effect. To continue operation, nothing is required. To remodel, nothing is required. To expand, now you need a CUP.

Council Member Filseth: I see.

Mr. Lait: To tear it down and rebuild it, now you need a CUP.

Council Member Filseth: Got it. Could you clarify one thing in here? It says that if you have a barbershop or a nail salon on Cambridge Avenue, you can still keep that. Right?

Mr. Lait: Yes. Again, just to reiterate, there's nothing about this ordinance that kicks any existing tenant out of any tenant space.

Council Member Filseth: You could put a new one in if you wanted?

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Mr. Lait: You could put in a new barbershop. In fact, you'd have to put in a new personal service, retail or restaurant. You could not replace that with an office per se.

Council Member Filseth: Thanks.

Mayor Holman: A couple or three things. The PTOD is an application that an owner would apply for, to be redundant, and it requires ground-floor retail. If we eliminate, though, or exempt it from this ordinance, that means that the conditional uses and the formula businesses don't apply to PTOD properties. Correct?

Mr. Lait: The way the ordinance is drafted, even if we did extend that green hatching to the PTOD, formula retail could be established in that location because we're only looking at formula retail on Cambridge, excuse me, on California Avenue. Formula retail is not restricted in the proposed ordinance on Cambridge or any of the other areas. It would only be restricted in the purple area. What exists—I'm looking at the ordinance and maybe there's a way to share this somehow. What the ordinance says is that when this property, 420 Cambridge, got rezoned to PTOD, it states that—I'm just reading verbatim—subject to the following limitations, the development shall be a mixed-use project comprising ground-floor retail, personal service or green design and sales uses with residential uses on the upper floors.

Mayor Holman: I don't have the PTOD ordinance in front of me. I meant to look at this up and didn't get around to it. I don't have a map of PTOD, and I don't have—that's what's happened for that specific PTOD zoning. What I'm talking about is the PTOD ordinance itself. Does it require ground-floor retail? I believe it does because it's—Council Member Burt was involved in this too—pedestrian transit oriented. Does the PTOD ordinance require ground-floor retail? Not that one project.

Mr. Lait: Let me check that. There may be—when you're establishing a PTOD zone, I think there's some standard. You can impose some standards to achieve that. I want to double check that in the Code.

Mayor Holman: That would be good. The PTOD overlay, I can't remember exactly if it creeps onto California Avenue or not. That's the other thing that I have a question about. Why would we not apply it to the PF? Here's the reason I ask this. Those are all, I think, parking lots, City-owned parking lots. If we were to develop those parking lots for whatever purpose, wouldn't we want to do something at the ground level that would support retail that hopefully is going to be introduced across the street? Why wouldn't we apply it to ourselves?

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Mr. Lait: I believe that we would want to do something that would encourage that kind of pedestrian experience that we're seeking to achieve with the ordinance. I guess it's a philosophical question or a policy question for the Council. We could impose that on us by regulation, so that when development of the PF zone was sought, we would look at the zoning and we would apply that. Or since we would have control over what gets built there, we know what we're trying to achieve. We could look at a development on a case-by-case basis and say either retail is taking off or it's not taking off or here's how this project can be used to improve that, but here's some components of the project that maybe don't meet that standard. It just gives the City a little more flexibility for something that's unknown at this point.

Mayor Holman: I do understand that, but I think there's a level of predictability for the public that comes into play here. I was around and commenting when the Bryant Street parking garage, for instance, was being proposed. I thought that was a great opportunity to provide at least some kiosk space around the perimeter of the ground level there. Didn't happen because there was no requirement on the City to do that. The thinking wasn't there. Not to say that I was right; I don't mean to imply that. Thinkings change, times change. If the City Council in the future wanted to change so that they could exempt themselves, then fine. If we're doing a comprehensive look at this, I think we ought to do it in a comprehensive fashion, so including those. On packet Page 78, Section 6 of the ordinance and the large paragraph that's under Section 6, about halfway down the sentence starts or the line starts improvement or any increase in the existing degree of noncompliance except through the granting of a Design Enhancement Exception. The difficulty I have with that is because, at least in the past, Design Enhancement Exceptions have really been—my word here—abused, and so there can be quite extensive exceptions. I have some concern about that. One other quick thing here is on packet Page 79. Sorry about that, 76, 57.6 formula retail businesses mean a retail, personal or eating and drinking service which along with ten or more other business locations. I thought we were looking at a definition of ten. Are we looking at a definition of 11 as being formula? The Staff Report talks about ten; this really indicates 11. Just so that we're eliminating confusion here.

Mr. Lait: I'm looking at Section 2 of the ordinance, 57.6.

Mayor Holman: Yes, sir.

Mr. Lait: Formula retail business along with ten or more other businesses. If you have ten, you're considered formula retail.

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Mayor Holman: I read it as along with ten or more other business locations. To me that reads as eleven. If we can ...

Mr. Lait: Yeah, I see what you're saying. The intent has been ten, and we can take a look at the language.

Mayor Holman: The language there, I think, needs to be clarified.

Mr. Lait: We can certainly do that.

Mayor Holman: My time is out. I want to thank you for bringing this forward. I have some not decisions made in my own mind about some of this. Council Members? Council Member Scharff. Why don't I do this? We've all been through one round of five minutes. Why don't I say, like, another three minutes of comments, questions or motions. Council Member Scharff.

Council Member Scharff: When I think about Cambridge Avenue—my office has been there for a long time—what is most successful right now there is probably, at least in terms of crowds and activating the street, actually the bubble tea place.

Council Member Burt: The what?

Council Member Scharff: The bubble tea place. I don't know if you ever go there, Council Member Burt, but the bubble tea place where the Weekly's building is. There's lines out the door often. I often go there and have to wait 15 minutes for bubble tea. That's probably more than you want to know. I hate when that happens. I'm thinking that—this is my question. I'm looking at the extensive retail services for the parking and intensive retail services. There's been some discussion in the Staff Report—frankly, not fleshed out enough for my liking—that talks about that it's difficult to open restaurant under our current parking restrictions. Staff was going to come back and look at that later. Is something like a service provider where they do a juice place, a bubble tea place—if people want to open things like that, a yogurt place for instance, would those have different parking requirements that would make those not feasible? How does that relate to extensive retail service versus intensive retail service? If we just got rid of intensive retail service and made it all extensive retail service, would that make things like that possible on Cambridge?

Mr. Lait: I need to pull up the definitions here. I would say that if it's an eating and drinking establishment, you're sitting down and you're being served, that has a different parking ratio than your other retail uses. It would be difficult to probably put parking to support those uses.

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Council Member Scharff: If we basically got rid of the difference between intensive retail service and made everything have the same parking requirements as extensive retail service on Cambridge, would we solve that problem?

Mr. Lait: Let me take a look at the—I'd have to (inaudible) parking requirement.

Council Member Scharff: Why don't you look it up? I'll give a little comment on this in the meantime then. As we try and activate Cambridge as a retail area, what you really want to do is you want to bring people over to Cambridge. I think that benefits the existing retailers there. For instance, they'll come over and they'll see the barbershop, they'll see the nail salon. You want to draw as many people over to that area. What tends to going to start to do that is some eating and drinking establishment, frankly, that people like. Not necessarily a restaurant, but I think it could be a fro-yo shop, an ice cream shop. I'm watching the bubble tea place do really well. It's all those sort of things. I think if we just say you've got to have what basically is this extensive retail to get within that parking requirement, I think we're going to have a problem on Cambridge. I think we're going to drive it to non-retail uses which are personal services.

Mr. Lait: To answer your question on the intensive/extensive. The intensive retail requirement is one space per 200 square feet of gross floor area. Extensive is one per 350, and retail—excuse me, eating and drinking is one per 60 of public service areas. I would say that does not solve the problem.

Council Member Scharff: Could we fix this tonight if necessary?

Mr. Lait: This is one of the things that the Council has asked us to look at. We've not included it in this ordinance because we believe it's going to require more outreach and analysis than we thought was asked of us to come back quickly with an ordinance to address the formula retail.

Council Member Scharff: How's it working today? I mean, right now we tell someone that they can't put in unless they have onsite parking or is it only places that are grandfathered in? I mean, how did the bubble tea place just open? There was also a similar place before them or how does this work?

Mr. Lait: I don't have with me right now an explanation as to why that particular use came in. That's certainly something we could research and get back to the Council on. I don't know if it was an—I mean, if it was an existing retail and it is now an eating and drinking place, I'd want to understand more about that change. If you have an existing eating and drinking place, certainly a new eating and drinking place can come in there

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and not have to provide parking unless they're expanding the gross service area. If you have a retail place and they want to—under today where we are with the Cal. Ave. assessment district, if a use wanted to come in today and there's no parking onsite, we would say this use is an intensification and requires X number of parking spaces. That parking is probably not going to be provided onsite, because they'd have to demolish the building to do so. Or they'd have to get an offsite covenant which is also going to be very difficult to achieve.

Council Member Scharff: I understand. What we're really telling people then is we're really going to only limit retail services to non-eating and drinking establishments unless they currently exist in those places. That's really what this current ordinance—that when we do it, we do. There's no way someone's going to put in new parking on those buildings that would cover 1 per 60. That's not going to happen.

Mr. Lait: Right. I don't think that is a function of this ordinance. That's just the current Code today.

Council Member Scharff: The difference is that we're now saying you can't have office uses there. Right? What we're now doing is opening the street up and saying you have to have a new use in there, but you're really only limited to retail uses that don't include eating and drinking.

Mr. Lait: Yes.

Mayor Holman: We need to move on.

Mr. Lait: Personal services and retail.

Council Member Scharff: We'll ...

Mayor Holman: Council Member DuBois.

Council Member DuBois: I think that bubble tea shop was a coffee shop and there's a parking lot right across the street. The ordinance on Page 75 refers to the Comp Plan L-31 which says Cal. Ave. shall be two and three stories. There was some conversation last week. That whole area is CC(2). It just seems like we may want to clear that up. They don't really seem to be in alignment right now. I'm concerned about that. On the map again, looks like—I guess the proposal or the current retail area is halfway down the block on Birch and Ash and El Camino. Is that correct?

Mr. Lait: The map in front of you, the purple depicts the current.

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Council Member DuBois: It does extend, like, halfway down the block on the side streets towards Sherman?

Mr. Lait: Sherman or Cambridge?

Council Member DuBois: The other direction, Sherman.

Mr. Lait: Looks like it goes back a depth or two parcels.

Council Member DuBois: I think I brought it up before. If any of my colleagues are interested, I'm wondering if we should make all of Birch, Ash and El Camino part of the district out to Sherman. It kind of depends on what we do with PF zones as well because I think those are parking lots, except for when you get down to—I mean if this is north/south—south of Ash Street. Quick question for legal, maybe you Jonathan. On Section 6, there's a clause about intentional destruction or demolition. I just wondered why that word intentional was there. I mean, it doesn't happen. If there was an earthquake, what would happen? Could they rebuild as is?

Mr. Lait: Our Code has some provisions about, I think, acts of God or something like that, which is distinguished from an intentional demolition.

Council Member DuBois: They could rebuild the existing footprint. If they expand the envelope, it would fall under this ordinance?

Mr. Lait: Yeah.

Council Member DuBois: One of the speakers was talking about Cambridge and saying that organic retail will not grow there. I think that's kind of the point of this ordinance. It's not organic; it's mandating. I don't know how else you would do it. It seems like that'd be the only way to have it change. Last comment is I am concerned about whether we should exclude these zones or not, particularly the PTOD. From what I've heard so far, I'm not convinced that we should exclude it. I'm curious what everybody else thinks.

Mayor Holman: Council Member Berman.

Council Member Berman: The more I hear this conversation continue, the more concerned I get about this expansion onto Cambridge Avenue and what the practical impacts are and how this is going to play. Let me just make sure I understand this correctly. Due to our current parking requirements, it's pretty much—I mean it's practically impossible for any restaurant use or any sit-down food establishment to set up shop on

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Cambridge Avenue in an area that doesn't currently have that, of which I don't think any of them do. Correct?

Mr. Lait: I believe it is difficult.

Council Member Berman: It is—yes, you never want to say impossible. It is remarkably, remarkably, remarkably, remarkably difficult.

Mr. Lait: There are some challenges with establishing a restaurant or eating and drinking establishment where one does not exist today.

Council Member Berman: Do any of those, other than Council Member Scharff's favorite bubble tea place, exist on Cambridge currently? I didn't get a chance to do a walk-down.

Mr. Lait: No, I don't think there's one on Cambridge, eating and drinking on Cambridge. Maybe on one of the side streets, there's a restaurant. Is there another ...

Male: (inaudible)

Council Member Berman: There's a Bolivian place? Without that, what types of uses would be permissible if we were to adopt the current resolution?

Mr. Lait: Retail uses and personal service uses.

Council Member Berman: Are we aware of any examples where there have been kind of retail strips that have just had retail and personal services uses and one Bolivian restaurant and one bubble tea place that have succeeded and attracted the type of pedestrian traffic that's necessary for a retail core?

Mr. Lait: We've not—we don't have any analysis to support that in the affirmative or negative.

Council Member Berman: Maybe I missed it, but PTC's analysis wasn't in here, was it? I don't think we had Minutes in our Staff Report from the Planning and Transportation Commission.

Mr. Lait: I'm not sure if the Minutes were in there. They did deliberate a variety of issues. At the end, they ended up supporting the ordinance as it was basically submitted to Council.

Council Member Berman: When did they have that conversation again?

Mr. Lait: They had two meetings on July 8 and August 26.

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Council Member Berman: I guess my concern for my colleagues that I'm looking for somebody to give me confidence in is how this realistically rolls out. How we can have under current parking requirements that make it very difficult for a restaurant use on Cambridge Ave., other than the one that currently exists, how we create a retail core that attracts the pedestrian traffic necessary for a successful retail corridor that currently would pretty much only be made up of retail and person services uses? I just wonder if we're not necessarily thinking through exactly how this is going to be successful.

Mayor Holman: I see no other lights. I started speaking, and there are other lights. I think there seems to be some confusion and some—we're not looking to change the parking requirements for restaurants tonight, one way or the other. Correct?

Mr. Lait: Correct.

Mayor Holman: If a restaurant couldn't go in on Cambridge Avenue tonight, today, it also wouldn't be any different tomorrow. Well, 30 days from now when we pass this ordinance. The requirement is no different.

Mr. Lait: Correct.

Mayor Holman: To be really clear because it's been stated a few times, but it seems to go back and forth, we're not kicking anybody out. Correct?

Mr. Lait: Correct.

Mayor Holman: If someone wanted to put in a hair and nail salon—he left—a barbershop, they would need a CUP but they still could go there.

Mr. Lait: A CUP on California Avenue, no CUP on Cambridge.

Mayor Holman: Yes, okay, all right. Just to get some of those things hopefully kind of clarified. Is there anything that we could do, not tonight, anything we could look at to do to especially encourage retail down by Molly Stone on Cambridge? Sometimes cities give, like, expedited permit processing. They do forgiveness of sales tax for a period of time. There are a number of things that cities do to kind of encourage something. What I'm kind of looking at is down at the Molly Stone end of things. You've got Molly Stone; you've got the Post Office; you've got a little drug store there. Is there something we could do to kind of build on that synergy that those have? Has Staff given any thought to that?

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Mr. Lait: I imagine that there are things that we could do if we wanted to focus in on that intersection or that node. That was not contemplated as a part of this effort.

Mayor Holman: Understood that it wasn't, but I was just wondering if we could do that. I just feel like—Jessica's still here—the bubble tea place has gotten a whole lot of mention tonight. I just want to say European Cobblery, European Cobblery, European Cobblery. Council Member Burt.

Council Member Burt: I actually count four restaurant or eating establishments. You include Domino's that's there, and then up on the corner at El Camino. It's a turnover right now, but it's been two restaurants that haven't done very well, a burrito place most recently. I do think that we want to be thoughtful in making sure that our wishes are not going to create unsuccessful retail. We don't want retail and services to have to compete with today's office rates and get driven out. That's really what has been a big concern. We have Class B office in the California Avenue area now going, when it turns over, for \$5 a square foot. Small retail service folks who have been there a long time can't compete. I think we want to look at what we're trying to solve or what problems we're trying to prevent that we're seeing that are in the process of occurring and make sure we do that. I don't disagree that more restaurants would give greater vitality to Cambridge, but we have a parking problem down there. I don't know that we have good data on what portion of patrons arrive there by car. Certainly at lunch time the parking lots overflow and go even more into the neighborhoods. It's presumably to a good extent folks driving down from the Research Park, but others come there as well for lunch because they have a favorite establishment. A lot of the places, people walk to and you see them pour out of offices on—sorry, we do have that. I'm just seeing this—interesting. I'm not sure what time of day too on that one. That'd be interesting. I'm seeing the table on Page 3 of the supplement that did break this down some. In any event, I don't think that we presently have knowledge that we have adequate parking to expand the retail on Cambridge, but I think that a lot of the service would potentially be at or less parking demand than if they were occupied by kind of start-up offices. I think in general we're on the right track tonight. I want to make sure that we're not over-expanding. I like the fact, frankly, that this becomes the transitional retail and retail service area for that greater region. Those that need great foot traffic, they're going to be on Cal. Ave. Cal. Ave.'s foot traffic just keeps going up and up. It's becoming a much more attractive retail area. Frankly, it's also Cambridge. As we're seeing new establishments opening, retail establishments opening on Cal. Ave., we'll probably see some of the older establishments driven out. Like, we had a florist shop that's now a pilot for what is basically Starbuck's new restaurant,

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Fire Oak and Barley. I wonder if we had retail space available on Cambridge, would an establishment like that move over to the lower rent Cambridge. Those are the sorts of transitions that we, I think, are going to anticipate. I just don't want to be kind of overconfident that just because we desire an outcome that we can mandate. I think this is in the right direction with all the service orientation, and that there's a need for it. I have a sense of caution about trying to get it right.

Mayor Holman: Council Member Scharff.

Council Member Scharff: I also think we should extend it to Cambridge, but I do have that sense of caution that without allowing eating and drinking establishments, that we're going to have a problem there. I think the more types of uses you can use on Cambridge, the more likely you are to activate the street, the more less likely you are to have vacancy. Those kind of things. I also—a restaurant could very well bring in more traffic. I find it really hard to believe that a—I guess I would call it the fro-yo shop, the yogurt shop, the bubble tea place, that those are destinations for driving. I believe what actually happens and what I see is people know it's there. They're on California Avenue, and they walk over to it. You're really unlikely to be creating traffic. I don't know where we came up with the 1:60 on a broad brush like that. I don't know if that came up with it's been there forever and it's not been an issue because before there was grandfathered spaces in the parking garages or there were just grandfathered in uses. I don't know. Do you know the history of this?

Mr. Lait: No, I don't. I don't know where 1:60, when that was put in the Code.

Council Member Scharff: I'd like to see us move ahead on Cambridge in terms of the retail and putting that in place. I do think there's more work to be done. I'd like Staff to come back on some of these issues. I really would like Staff to come back. First of all, I agreed with everything Council Member Burt said about the retail and the depth issues. I'd like to have a sense of what is the standard in the industry, what works. I'd like Staff to talk to some retail brokers, understand what makes sense in terms of depth. We don't want to hollow it out; we don't want to have too little. Maybe it's a difficult choice, and maybe the right thing to do is to have the whole ground floor to be retail. On the other hand, for a lot of retailers, a smaller space may make more economical sense given the cost of rents. We want Cambridge to be successful. We don't want there to be a lot of vacancy. I'd really like to know that, and I'd like to know the parking. I think those are the two things that are most likely to make Cambridge not successful if we just go ahead and implement this without coming back on those two issues.

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I'm torn a little bit on how to implement the conditional use permits for new formula retail on California Avenue. It's a tough decision for the Director. It puts the Director in a difficult situation. I doubt there'll be that many coming to them. I'm wondering if they should come directly to Council. When I asked the questions from you, it seemed that it's basically discretionary is what you said to me. I didn't get a sense that the criteria—I got the sense that the criteria could be applied for any business I chose differently. I didn't see any consistency in terms of how you would apply those. Maybe I just don't understand it, but that's what I got from you when I asked you those questions. I was going to give you another opportunity to say it would be different.

Mr. Lait: Again, I think it's a case-by-case review depending on what ...

Council Member Scharff: Is there any reason why we shouldn't just have it come directly to Council on that?

Mr. Lait: Perhaps the Council could be informed by some earlier comments that are put into the administrative record.

Council Member Scharff: Would it go to PTC first and then Council? I mean, what's the right way to do that?

Mr. Lait: I think, one, we've got a CUP process in place today. If we wanted to deviate from that CUP process, maybe the CUP is not the appropriate application that we want to use. I would say that we do send out a notice to a 600-foot radius from the site. If people generally are not satisfied or happy with the outcome, I think it's going to come to the Council.

Mayor Holman: Council Member Wolbach.

Council Member Wolbach: On Page 2 of the Staff Report which is Page 65 of the packet, it mentions that we would limit formula retail on—sorry. I think it's the sixth bullet point down. It says that we would limit other retail uses on California Avenue to no more than a defined percentage. I was looking in the draft ordinance for—maybe it's not there or maybe I just glanced over it somehow—what percentage of Cal. Ave. would be allowed to be formula and what percentage of Cal. Ave. would be allowed to be other retail. Were those in the ordinance and I missed them or were they not in the ordinance currently?

Mr. Lait: They're not in the ordinance. They're not in the Ordinance, because we just don't feel like we have enough data to pick a percentage. We thought rather than set a percentage standard, that the conditional use

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permit process provided sufficient latitude for evaluation of future formula retail and hair and nail salons.

Council Member Wolbach: I'm still not ready to make a motion. Just based on the questions bouncing around the room right now—I'll leave it to others to make the first call on this—I'm debating do we pass what was proposed by Staff; do we ask Staff to remove some of the items that are in the Staff proposal that might still be too controversial, that we don't feel ready to vote on; do we try and add to it tonight which I think is very dangerous; or do we ask for this to be continued until another night. Given our schedules, I'm not enthusiastic about either. I'll let my colleagues pick that one up however they want.

Mayor Holman: Council Member Kniss.

Council Member Kniss: I was just musing. This doesn't really feel cooked yet. I'm concerned. I'm often on California Avenue, as many of you are. Greg, certainly you are; that's where your office is. At noontime, it is hellacious to park there. Many of you who have tried over there circle and circle and circle. I can't tell you how many times someone has said, "I'm going to be late for lunch. I cannot find a parking place on California Avenue." I'm concerned that if we now designate retail on Cambridge and yet we haven't established the parking issue sufficiently—it's one that we've discussed a lot. I've heard Council Member Scharff mention this any number of times, that another parking garage was promised for California Avenue, which obviously hasn't occurred yet. We are indicating that retail has to go in there, and yet we are really not providing for the parking. Picking up on what you said, Cory, I know we have a terrible schedule, but it sounds as though there are some parts of this that really haven't been threshed out sufficiently that we can say from now on we will require X amount of retail on Cambridge. I'm feeling pretty uncomfortable with it.

Mayor Holman: I think for us to move forward here—there have been a lot of comments made, a lot of very good comments here. They've come from a variety of different directions. I think we have promised the community and the California Avenue merchants and businesses along there, we've promised them that we would take action. Both because of that and because of find a place on a future agenda, because of that I'm wanting us to move forward. Because of that—I'll anticipate some amendments of course—I'm going to move that the Council adopt the California Avenue retail preservation Ordinance to amend the City's Zoning Code and Zoning Map to extend the retail R Combining District beyond California Avenue, establish regulations and review procedures for formula retail uses and certainly personal service uses, i.e., hair and nail salons, in the R Combining

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District and changes to the provisions for grandfathered uses in the R Combining District. The Planning and Transportation Commission has reviewed the proposed—I don't need to put that in there. The Ordinance is exempt from the California Environmental Quality Act pursuant to Section 15061 and Sections 15305. I'm going to move approval of the Ordinance with the following clarifications and corrections, if I could. David, if you can follow this. There is a clarification needed or a correction needed on the Ordinance, Page 3, Section 2 (57.6), such that ten is the defining number of formula businesses.

Council Member Burt: The defining number in the ...

Mayor Holman: The defining number for determining formula businesses. That's consistent with both the Staff Report and somewhere else in the Ordinance. Include PTODs. Include PF. Another bullet would be to eliminate the language on packet Page 5.

Male: Packet Page 5 (inaudible).

Mayor Holman: I'm sorry, I'm sorry. Ordinance Page 5, Section ...

Council Member Wolbach: (inaudible) Section 5?

Mayor Holman: No, it's the Ordinance Page 5, packet Page 78, Section 6, that large paragraph—I'll leave this open to amendment—eliminate the language on the line that I mentioned earlier; the line that starts "improvement or any increase in the existing degree of noncompliance." Eliminate the "through the granting of an Design Enhancement Exception." I'm open to language that will limit or define a DEE. As for the future, for Staff to return with information regarding depth of retail requirements ...

Council Member Scharff: Lot depth.

Mayor Holman: Lot depth, well, the lots are what they are.

Male: (inaudible)

Council Member Scharff: Store (inaudible).

Mayor Holman: Yeah, retail, retail, retail depth.

Council Member Scharff: I'll second it.

Mayor Holman: I think I will leave it ...

Council Member Scharff: I'll second the motion.

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Mayor Holman: Hang on just a second. Let me make sure I got everything here. Yes, I think I'll leave it there. You're seconding, Council Member Scharff? Okay. Thank you for that.

MOTION: Mayor Holman moved, seconded by Council Member Scharff to adopt the California Avenue Retail Preservation Ordinance incorporating the following to:

- A. Amend the City's Zoning Code and Zoning Map to extend the Retail (R) Combining District beyond California Avenue; and
- B. Establish Regulations and Review Procedures for Formula Retail Uses and Certain Personal Service Uses (i.e. Hair and Nail Salons) in the R-Combining District and Changes to the Provision for Grandfathered Uses in the R-Combining District; and
- C. Replace in Ordinance Section 2 (57.6), "along with ten (10) or more businesses" with "such that ten (10) is the defining number for determining formula businesses"; and
- D. Include Pedestrian and Transit Oriented Development (PTOD); and
- E. Include Public Facilities District (PF); and
- F. Eliminate language in Ordinance Section 6, paragraph 3, sentence 2, "except through the granting of a design enhancement exception"; and
- G. Direct Staff to return with information on depth of retail requirements.

Mayor Holman: The only things I will say in addition to what I've said already—one thing just to repeat is I don't think I can overstate, I don't think we can overstate how long we've talked to the public about doing this, how long the community has come forward and said they want this. I'm really on the fence about the depth of retail. That's why I want some information to support one way or the other on that. I'm really on the fence on that. I think we do need to move forward. Kicking the can down the road, we're just inviting more intrusion that is exactly opposite to what the community is wanting and been saying, both by survey and other means, that they want on California Avenue in particular. I will leave it there. Council Member Scharff, speak to your second?

Council Member Scharff: Sure. I also think that extending the retail requirements to Cambridge are a good idea. I think you do want to have more retail space that allows a lot of these services may be driven off California Avenue or just not provided, that people want, that can then go to

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Cambridge. I think it's going to be a bit of a slow process, so I think we have some time to get this right. I do think we have to look at—I'm glad you're coming back with modifying, not modifying but with looking at the depth of the retail. I think that's the important thing. I also think I'd like us to come back relatively quickly in terms of looking at the parking requirements and understanding that. I was going to ask Staff how long—I mean, what's a reasonable amount of time to come back to Council and say, "These are the parking requirements for these different uses. This is why it is and these are the studies we've done"? Is it 180 days?

Mr. Lait: I could tell you what the parking requirements are for the different uses. Is the question what ought to be the parking requirements for this particular set of uses in this neighborhood? We would need to likely hire a consultant who has an expertise in parking to do some analysis of the existing uses out there, do some surveys of how the lots are being used, survey the ...

Council Member Scharff: What kind of language would you want from Council to give you the direction to go ahead and start that process?

Mr. Lait: I think the Council gave us the direction in the last set of motions.

Council Member Scharff: To already do that?

Mr. Lait: Yeah. I think the only challenge that we have is how do we balance that with the other projects that we're working on. We do have Staff that's working on some other efforts that require time. If this is a priority project, then I think there probably needs to be conversation about what on our work plan gets adjusted.

Council Member Scharff: I guess, I think it should be done within a year. By then people are going to start possibly having—need new retailers for stuff on California Avenue. I don't think it has to be done tomorrow. I think whoever said—it's probably the same 30 days from now. If two years go by, I think it could impact the area. I mean, is it ...

Mr. Lait: A year doesn't cause me huge concern. I think we can accommodate with then. Well before then, I think we can come back to the Council with a brief scope to outline what that would involve from a consultant perspective.

Council Member Scharff: You're saying—I guess the question is do I need to put this in the motion at all or are you ...

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Mr. Lait: I feel like the Council has articulated that in the last motion on May 18th. I think if you include it here, it's understood. I have notes on it.

Council Member Scharff: Does Director Gitelman feel the same way? A year from now, I can say, "Where is it? You promised." The only question I really had on this to the Mayor was the PTOD stuff. Your reasoning, I assume, was that you wanted to make sure that the formula retail issues were included in the PTOD. Is that correct? That's what I saw as the difference.

Mayor Holman: Yes. That's one. Also, it's a consistency of application of rules. City Attorney I think has ...

Ms. Stump: Just to clarify, the PTOD is not on Cal. Ave. It does not—it's not subject to the formula retail portion of the Ordinance.

Mayor Holman: There's none on California Avenue, okay. It goes to—I'm going from memory here, because I did not get it looked up. It does go north and south of California Avenue.

Council Member Scharff: Does Staff see any problem with including PTOD or not? There's no formula retail requirements embedded in it. It requires ground-floor retail anyways. Isn't it just consistent?

Mr. Lait: I ..

Mayor Holman: Could I make a suggestion? Because this is going to come back for a second reading, could Staff provide the clarification on that for the second reading? That would help us move along this evening. Would that be agreeable to ...

Council Member Scharff: That's fine. That's fine.

Mayor Holman: Council Member Scharff.

Council Member Scharff: If you're amenable to it, I'd like to add a vehicle to grant the existing formula retail businesses a conditional use permit, so that they know that we're not trying to drive them out. They're not suddenly thinking that they're nonconforming uses; that they're welcome to stay there; that they're welcome to be there.

Ms. Stump: Council Member Scharff, Madam Mayor, if I may? This idea just coming up tonight and quickly consulting, it may be that we'll recommend a different mechanism to accomplish that.

Council Member Scharff: That's fine. Just come up with a vehicle.

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Ms. Stump: Yes. It may be that it's not in fact a conditional use permit, but it's Ordinance language that says that existing uses shall not be considered nonconforming notwithstanding ...

Council Member Scharff: Do you have language you'd like to suggest?

Ms. Stump: I think rather than write it on the fly this evening, we ...

Council Member Scharff: No, no. I mean language to suggest how ..

Ms. Stump: For the motion.

Council Member Scharff: Yeah, for the motion to come back with.

Ms. Stump: Sure.

Mayor Holman: Does Staff just have the direction—they understand what your intention is.

Ms. Stump: We do, we do.

Mayor Holman: Is that good enough?

Council Member Scharff: Just direct Staff to draft Ordinance language granting existing formula retail ...

Ms. Stump: Legal conforming status.

Council Member Scharff: ... legal conforming status.

Ms. Stump: Our understanding is that you're looking to do that for the existing businesses, but not—the existing land uses there, but not including intensification or expansion. If there was an intensification or expansion, then they would need to get a conditional use permit. The formula uses.

Mayor Holman: Council Member Scharff, I'm not sure I would accept that, because I don't know what the implications are. I would like for Staff to come back with that information, so I'd know what the implications are. Sorry, but I can't accept that as an amendment.

Council Member Scharff: Okay. I'll just make it as a separate amendment.

Council Member Wolbach: I'll second it.

Mayor Holman: Second by Council Member Wolbach.

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AMENDMENT: Council Member Scharff moved, seconded by Council Member Wolbach to add to the Motion "Direct Staff to draft Ordinance language granting existing formula retail uses legal conforming status."

Mayor Holman: Do you need to speak any further to your amendment?

Council Member Scharff: Yeah, I do. I think that—I'll say that I'm really glad FedEx is there. I think the Counter does a good job and a lot of people use it. I think there's a variety of those businesses. I don't think we want to send them a message that we want them to leave. I want to make sure that they don't feel that way. I guess I have to ask about intensification since you did. We've put a bunch of sidewalk chairs; we've widened the sidewalks. If one of those formula retail places, like the Counter, wanted to put extra chairs or Starbucks wanted to put extra chairs, that would not be an intensification of use. Correct? I just want to know what the definition of intensification of use is.

Mr. Lait: As long as it's not considered—as long as it's not covered and not part of a floor area type of definition.

Council Member Scharff: You mean as long as they're not expanding their space.

Mr. Lait: Yeah, into an adjacent tenant's space.

Council Member Scharff: I'm fine with it. Yes.

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

Council Member Wolbach: Actually, can we see the amendment on the screen? Thanks. I don't know if this would cover—Scharff, this is actually good for you to hear also. Council Member Scharff. I just want to make sure—I want to know if it's your intention or whether we should ask Staff to bring two alternatives, whether this includes, say, like the example that was raised earlier. Starbucks, if we're granting them legal conforming status, if that was going to switch over, like, the Starbucks wanted to leave or that they went out of business, if that use, that location was going to convert to or could still be available to another similar business, would we want to allow that to be possible? Is that kind of what you would want to get at with your direction to Staff?

Council Member Scharff: That's already what they've said is true. That already exists. Doing this doesn't change that. They're already allowed to do that.

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Council Member Wolbach: Thank you for the confirmation on that. I think this is good. Again, I just want to double check with Staff. Beyond this, we don't need to do this as well for any current operations on Cambridge, because they're already protected, which is my big concern. I think that it's good to have some formula retail there. We have it there now. Our intention was to have some percentage allowed. I guess Staff will come back with more thoughts later about what kind of percentage numbers we would be looking at. That was part of the original direction.

Mr. Lait: It's not our intent to do that.

Council Member Wolbach: It's not your intent to do that.

Mr. Lait: Not to establish percentages, no.

Council Member Wolbach: This is kind of like in lieu of establishing percentages, basically we're protecting the ones that are there now. Our percentage is whatever is there now. I think this is good for now.

Mayor Holman: I have three lights. I want to make sure that you're all wanting to speak to this amendment. I have Council Member DuBois, Vice Mayor Schmid, Council Member Kniss. You're all speaking to the amendment. Council Member DuBois.

Council Member DuBois: I originally wanted to speak to the motion, but I'll speak to the amendment. I agree with Mayor Holman that I would just like to understand what this means. I think Council Member Wolbach in his seconding—I was still confused. Again, the Ordinance as it is says that these would be legal conforming uses. They're protected. We're not kicking them out. Giving them a conditional use permit or making them legal, I don't fully understand what the implications of that are. I guess I'm concerned that that would—does that allow them to then expand their FAR? Would that be your understanding?

Mr. Lait: Not without a CUP, not expansion. As I understand how this is going, there's a perception that we're also trying to communicate. We would be saying that for these uses that would have been rendered nonconforming by this Ordinance; we're saying you're not nonconforming; you have legal status. If Domino's goes out and Pizza Hut comes in, that's all fine. If Domino's wants to expand to the adjacent tenant space, now we're looking at a CUP.

Council Member DuBois: I just don't like the idea of communicating through a legal Ordinance. I think we can communicate, say you're legal

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nonconforming. It has more weight than that. We're changing actually the legal status.

Mayor Holman: Council Member Kniss is next please.

Council Member Scharff: I just want to answer his question, if that's all right. You asked what it would do. I can come back to it.

Council Member Burt: (inaudible) let the Chair (crosstalk).

Council Member DuBois: I don't know if our City Attorney wants to come in. Is there a difference?

Ms. Stump: I would need to look to the experts and the real estate folks and the planning folks in terms of the practical implications. My understanding is that the intention is to create a legal status that would not have that nonconforming characteristic to it for those existing businesses.

Council Member DuBois: What do you mean by nonconforming characteristic? That it would expire?

Ms. Stump: in general, when a new land use regulation is implemented, it does not displace existing businesses. They may remain under the terms in which they were constructed and occupied. Can't expand, intensify, etc. We call that legal nonconforming. My understanding is that there's an interest in declaring or establishing a conforming status for those businesses, but subject to essentially the same rules of non-intensification.

Mayor Holman: I'm going to go to Council Member Kniss next, and then Council Member Scharff wants to clarify maybe what—or respond to Council Member DuBois' comments. Council Member Kniss.

Council Member Kniss: Which one are you taking first?

Mayor Holman: You. You were next in line.

Council Member Kniss: This would move me actually a step closer to supporting the Ordinance. I think protection of those existing and I think those that exist right now, thinking of FedEx and Counter and so forth, are very successful. I think they're the reason a lot of people go to California Avenue and then stay there for other reasons. I think this gives them a kind of status that would give them a great deal of comfort. I appreciate Council Member Scharff adding this.

Mayor Holman: Council Member Scharff, did you want to try to clarify your intention with this?

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Council Member Scharff: I do. There are investment decisions when you go to banks that are difficult to get money for if you're a nonconforming use. There are insurance issues that come up when you're a nonconforming use. There are a whole bunch of issues that come out like that when you don't have legal status to be there. I see no downside to doing this. I see no downside to say, "You are not a nonconforming use. You have the status of being there. We want you to be there." I don't see how this in any way hurts us. I think it gives them comfort and could have, depending on which bank loans they're looking at, depending on which investment decisions are being made, give them the ability to conduct their business in an easier way, without having to explain that we're actually a nonconforming use but we can actually stay here because the Ordinance allows it. If we burn down, for instance, we can rebuild to this. You can, right, if you're a nonconforming use on this? That's a good question. Because under this, if you burn down, say FedEx burned down tomorrow. FedEx could under their lease, say they don't own the building, they could then rebuild and be FedEx. Whereas, if we say they don't have status, I was assuming they could rebuild and be FedEx, if they didn't expand or whatever. There's an example for instance ...

Mayor Holman: I think we're talking about a distinction without a difference, largely. Again, I appreciate the intention, but I'm just a little concerned about unintended consequences here. If FedEx burned down, they could rebuild. We're talking about the findings that are in the Ordinance. If there's no other kind of service on there, I would imagine they could get another CUP or get a CUP for this. I'll leave it at that. All those in favor of the motion or opposed to the motion, please vote on the board.

Council Member Berman: The amendment?

Mayor Holman: I'm sorry. The amendment, yes. Thank you. This is on the amendment. The amendment passes on a 7-2 vote. Vice Mayor Schmid and Mayor Holman voting no. That will be incorporated into the motion.

AMENDMENT PASSED: 7-2 Holman, Schmid no

Mayor Holman: Now, we are ready to vote on the motion. The motion is to approve the California Avenue—Council Member DuBois, you had something else?

Council Member DuBois: Yeah. I just want to, I think, correct maybe an oversight. You're including PTOD. The Ordinance also includes CC(2)(P) which is another form of PTOD. I think you'd want to include that as well. It's on Page 4 in Section 3.

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Mayor Holman: I don't think the intention is to include CC(2).

Council Member DuBois: Right now what is excluded is PF, PTOD, CC(2)(P) and PC.

Mayor Holman: Right. If you look at the map, Council Member DuBois, CC(2) is south of California Avenue, the backside of California Avenue, and north of the backside of California Avenue. We are changing the boundaries to include the part that's north of California Avenue. We are not making any changes to what's south of California Avenue. If we included—Staff, correct me if I'm wrong here—the CC(2) that's south of California Avenue, it'd be a very different Ordinance than what we're looking at right now.

Council Member DuBois: It's the one that's excluded here which is the restaurant, I believe.

Mr. Lait: I believe you're looking at this, kind of up in the corner here, Council Member DuBois? Is this the one in question?

Mayor Holman: I was looking at a different map. Council Member DuBois?

Council Member DuBois: Yeah. We're talking about within the Combining District, there are these exclusions, CC(2)(P). I guess the only one is that one you're pointing to with the arrow.

Mr. Lait: That's actually a PC zoned; that's the other PC zoned property. As I'm understanding the motion, two properties in this area are PC zoned. This is one of them, and then there's another one on—actually I think it's this one here on Cambridge, I believe is the other PC zone. That's actually a City parking lot. A City parking lot here, and then the other PC zone is this one with the restaurant and the multifamily.

Council Member DuBois: You're saying CC(2)(P) is a PC zone?

Mr. Lait: CC(2) is the zoning for most of this area that you see in purple and in green. The P is another Combining District, pedestrian overlay, which applies on California, but it's not been extended over to the green hatched area.

Council Member DuBois: Do you understand that?

Mayor Holman: Yeah, you lost me on that one. Apologies. Would you repeat that?

Mr. Lait: Yeah. California Avenue has a CC(2) zoning with an R overlay which we've been discussing and a P overlay on Cal. Ave. The P overlay is

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not being extended or at least in this Ordinance isn't being extended to Cambridge. If you're ...

Council Member DuBois: Correct. In the Ordinance, it's excluded, so are you excluding that on Cal. Ave.? CC(2)(P).

Mr. Lait: It's already covered, I guess. Right? The bulk of that map, the purple, what I see as purple, that's already got the R overlay. Maybe I'm not understanding the question.

Council Member DuBois: I'm just looking at the Ordinance. The Ordinance says ...

Mr. Lait: Can you give me a ...

Council Member DuBois: ... they were going to exclude CC(2)(P). I guess I'm asking is that correct.

Female: (inaudible)

Council Member DuBois: Shall not be applied to property with the following zoning. It's Section 3.

Mr. Lait: Okay, Section 3. Right.

Council Member DuBois: Is it only referring to that one specific property with the Ordinance number?

Mr. Lait: Yeah, that's referring to this property right here.

Council Member DuBois: I thought it was more general. That's what I wanted to clarify.

Mr. Lait: It's just that property. Thank you. I can understand why that was confusing.

Mayor Holman: Also have a light from Vice Mayor Schmid. Speak to the motion.

Council Member Kniss: Are we back to the motion now?

Mayor Holman: Yes.

Vice Mayor Schmid: I just made the point earlier that this is a unique situation in town. We're trying some new things. We're experimenting. There's a lot of questions about how is it going to work out. It seems to me

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it would make sense to have a review after a period of time, maybe five years. As it is set up now, appeals just go to the Planning Director, and from the Planning Director to the PTC, and then appeal to the Council. That on a single application can take up huge amounts of time of lots of people. Having a five-year review period where you come back and say how is this working out would allow us to look at some of the details in a changing environment and say this makes sense. I would ask the maker and seconder of the motion to just add an amendment to say there will be a review in five years.

Council Member Kniss: (inaudible)

Vice Mayor Schmid: Two elections.

Mayor Holman: Five years is too far out I think. If we're going to do a review of this, it should be, like, two years.

Council Member Scharff: I agree. I'm good with two years.

Mayor Holman: So you've got that.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion, "there will be a review of this Ordinance in two years."

Mayor Holman: I have a light also from Pat, Council Member Burt.

Council Member Burt: My apology if this has already been clarified. When we're looking up at the PC up at Palo Alto Central, I think it's called. The green hashed in the upper right. There are spaces there that were always on the—that entire block, what faces Cal. Ave. and what's along the Park Boulevard. There are service businesses there. There have been at different times some retail there. This green hashing goes all the back to the track. Am I misinterpreting that? There's a restaurant in that Courtyard, but I think there's other ground-floor there that's ...

Council Member Scharff: There's lots of other ground-floor retail.

Council Member Burt: Pardon me?

Council Member Scharff: There's lots of—you're right. There's lots of other ground. There's the watch maker, the jewelry.

Council Member Burt: Yeah. My question is whether the entire parcel, all the way back to the tracks, are we saying that's now in the retail district and are all of those—those are commercial condos I think on the ground floor.

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That's what I'm trying to understand. Those that aren't abutting streets or the Courtyard or at least ...

Mr. Lait: We've written this into the Ordinance. I just want to go back to the proposed Ordinance for a second. There's a whole—what this area is intending to represent is this PC zone which is captured in an Ordinance. I'd have to look at that Ordinance to find out ...

Council Member Burt: Perhaps the Ordinance limits which areas have ground-floor retail or service requirements in a way that this green hashing extends beyond what the Ordinance does. Is that ...

Mr. Lait: That's what I'm going to look up right now. I have the Ordinance with me. If I can just get a moment to scan it here.

Council Member Burt: The City Attorney want to chime in there? You lost your light. You lost your light.

Ms. Stump: I didn't mean to interrupt you, Council Member Burt. If we were just waiting, I had one other unrelated clarification question to ask at the right time.

Mayor Holman: Please.

Ms. Stump: If Council could clarify for us Sub G. Is it the intention of the motion to adopt the Ordinance as drafted but then return with additional information on that point to be considered by Council for a future amendment?

Mayor Holman: I think that makes sense.

Council Member Burt: Yes.

Mayor Holman: Council Member Scharff, is that your intention?

Council Member Scharff: Yes, it is. I mean, obviously if you can come back on the second reading with the information, that would be really helpful. We'd adopt on a second reading, but then we can put the amendment on a— I mean, if you come back too long from now, it won't make much difference.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion at the end of Part G, "for consideration in a future Ordinance."

Ms. Stump: I think the nature of it, frankly, it would affect the property to be regulated. It's significant enough that we wouldn't want to do that on a

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second reading. It's not a minor language change. We would recommend then that that would be a new Ordinance which you could do at any time.

Council Member Scharff: Right. But coming back, if you came back to us when we implemented it, we would pass this, but then we'd basically pass an amendment on a first reading and then 30 following days it could come back. The question is could you get it done by 30 days. That's really the question on that.

Mayor Holman: Council Member Scharff, I think what we want to do is, at least the intention with this is to pass the Ordinance and then my intention was not—because I don't think it's probably possible—to bring back "G" to be applied to a second reading. We want to get the Ordinance in place.

Council Member Scharff: That's what I said.

Mayor Holman: Then we want Staff to come back as soon as feasible with information about this, that we then would either amend or not amend this Ordinance.

Council Member Scharff: Right. That's exactly what I said. I just asked if it was possible to come back soon. I mean, the longer it takes (crosstalk).

Mayor Holman: Soon. Soon, yes. As soon as feasible. Is that understandable and clear and okay with Staff?

Ms. Stump: The direction is clear. Based on what the Assistant Planning Director said, that's not the type of analysis that we could accomplish in the timeframe of a second reading. When it does come back, then it needs to come back for policy direction and then we would come back with an Ordinance. It's two steps there. Thanks.

Mayor Holman: Jonathan, did you have something else?

Mr. Lait: Yes, I do. It looks like the way this is drafted—I'll say that this section appropriately reflects the PC zoning boundary. In looking at the map that accompanied that Ordinance, it does look like there are some multifamily properties here that it really doesn't make any sense to include them in the green hatching. There is sort of along this kind of a line, a natural boundary that defines the CC(2) zoning and the RM-40 zoning behind it. We would recommend it follow that line, if that makes sense, or we can just follow the frontage of Park Boulevard if you thought that were more appropriate.

Mayor Holman: This is—that is a PC though.

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Council Member Burt: I guess I'd leave it up to you guys to clarify this. I just don't want to put something in there that isn't what we mean.

Mr. Lait: I think I have sufficient guidance on that.

Mayor Holman: Council Member Kniss, you had turned your light on as well.

Council Member Kniss: Yes. I had been hoping something would happen that would let me support this. I think it's time for it to be incorporated into our governance as an Ordinance. Three things have been very persuasive to me. One of them was just the one that the Vice Mayor brought up, which is like you just borrowed the words right out of my mouth. I think looking at this in two years is really important. We really need to know what has happened rather than it just drifting back to us gradually that they're having difficulty. I am very concerned about the parking. I think that's one of the areas that we really need to be vigilant about. It's hard to imagine a—for example, I hate to keep using Pete's but it is my favorite coffee store. It would be hard to conceive of a lot of parking along Cambridge, because people frequently go to Pete's for a meeting or they sit there for a while. I'm trying to think where they're going to park in that area. Even though Pat tells me from the graph that we just had that most people don't have any trouble parking there, which is kind of interesting. The other one that really is persuasive for me is that I was very concerned about the requirements for the retail formula stores which exists there at the moment. Once we've added that in, that gives me comfort with going forth with this.

Mayor Holman: Jonathan.

Mr. Lait: Just to clarify that in my presentation, I made note of some administrative changes, non-substantive changes to the substantial remodel provision, if that could also get incorporated into the motion. Also, just to clarify that we're going to look at this area between Park and the right-of-way and make some refinements to the map based on that conversation we had.

Mayor Holman: Do you want a "J" added to cover the—I don't have the address. Actually it's numerous addresses.

Mr. Lait: 2701 Park.

Mayor Holman: I'm sorry.

Mr. Lait: (crosstalk) that. These ...

Mayor Holman: It's Palo Alto Central is the whole development, is it not?

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Mr. Lait: (crosstalk).

Mayor Holman: Include Staff initiating changes to clarify intention consistent with the Ordinance regarding Palo Alto Central. Is that, like, too many words to just say what you wanted to do?

Mr. Lait: Then this (crosstalk).

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion, "including Staff initiated changes to clarify intention consistent with regards to Palo Alto Central."

Mayor Holman: What are the administrative changes?

Mr. Lait: To the substantial remodel provision.

Mayor Holman: What was that change?

Mr. Lait: We're going to just clarify the 50 percent—how we measure the 50 percent calculation of what is considered a substantial remodel. The other change has to do with ...

Mayor Holman: You haven't indicated what that change is.

Mr. Lait: I'm sorry.

Mayor Holman: You haven't indicated what that change is, right?

Mr. Lait: We would do a calculation of measuring 50 percent of the linear dimension around the building. If 50 percent of it is removed, that would be considered a substantial remodel along with the other criteria. We also wanted to just add more specificity to what structural members were. They're not substantive changes; just we wanted to add more clarification to the Ordinance.

Mayor Holman: If somebody had a—I'm sorry to go here. If somebody owned property and they were wanting to open up walls from one building to the next building because they own two next door to each other, those aren't exterior walls, right?

Mr. Lait: It would be, because we're looking at the building's exterior walls even though they might be adjoined. I guess it would depend on how much they open up the building. We're looking at an individual building on a lot, and if you've got two buildings on a lot with the property line going between them, we would consider each building's wall as the perimeter wall. It would not be—if you've got two building walls straddling a property line, those are

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still exterior building walls to the building. They would not become interior walls.

Mayor Holman: I won't put it in the motion, but you might want to come back with ...

Mr. Lait: An illustration or something.

Mayor Holman: Yeah, some kind of discretion around that.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion, "including language clarifications pertaining to Substantial Remodel."

Mayor Holman: All right. Ready to vote on the motion. Pardon me for not repeating it all. That motion passes unanimously. Hopefully bubble tea and European Cobblery are both very happy.

MOTION AS AMENDED PASSED: 9-0

Mayor Holman: If Council Members can be adherent to this, I had a request for about a three-minute leg stretch break between these two items. Please do be back though in three minutes, so we can carry on.

Council took a break from 9:53 P.M. to 9:59 P.M.

Mayor Holman: Thank you to the members of the public for staying with us this evening as we go to Item Number 6.

6. PUBLIC HEARING - Adoption of an Interim Ordinance Establishing a 50,000 Square Foot Annual Limit on Office/R&D Development in a Portion of the City Including Downtown, the California Avenue Area, and the El Camino Corridor. Environmental Assessment: This Ordinance is Exempt from the California Environmental Quality Act (CEQA) Pursuant to CEQA Guidelines Section 15061(b)(3); The Planning and Transportation Commission Recommended Adoption.

Mayor Holman: Does Staff have a presentation please?

Hillary Gitelman, Planning and Community Environment Director: Yes. Thank you, Mayor Holman. I won't introduce the item again, since you just did that. Let me start by talking a little bit about the context of what we're here to discuss this evening. I'm Hillary Gitelman, the Planning Director. We've talked before about the job growth that's happened in the region and in Palo Alto since the recession ended. This is such a compelling graph; I like starting with this. We know that at least some of this job growth that's

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happening in the region and in Palo Alto is a result of new non-residential development. We also know that there's job growth associated with existing building space that's being filled up or that was filled up after the recession. Of course, jobs contribute to impacts. New non-residential development in neighborhoods that we're talking about in this Ordinance, while it's consistent with Palo Alto's zoning controls, is happening maybe faster than we anticipated. This annual limit that we're discussing this evening is intended to address that pace of development. As the Council's aware, the City currently has a growth management strategy which consists of a cumulative cap on non-residential development in monitored areas of the City. This is the cap established by Comprehensive Plan Policy L-8. When we had our Comp Plan discussions in the community last summer, we heard the idea come from the public about what if we controlled the pace of growth rather than the total amount over time. That's, again, the idea that we're talking about this evening. On March 23rd and on August 26th—I'm sorry—March 23rd and June 15th, the City Council gave us pretty specific direction on the Ordinance that they'd like to see establishing an interim office limit. The Planning Commission reviewed that recommended Ordinance on August 26th and recommended it to the City Council after quite a bit of discussion. In addition to collecting data reference to Policy L-8 in the Comprehensive Plan about all non-residential development in these monitored areas of the City, we have a data set we refer to as the CMP or the Congestion Management Plan data that offers a slightly better look at cumulative changes in non-residential development over time. What you see on this chart, and it's also in the Staff Report, is a snapshot of the changes from 2001 to the present in these different categories of land use; retail, office/R&D, other non-residential and then a total. This is net change over time, so it really doesn't tell the whole story. The story that we're interested in this evening is really about the pace as well as the net change. This graph shows that over the last 15 years there have been six different years in which the total of office/R&D development using this data exceeded the 50,000 limit that we're talking about here this evening, and it demonstrates what the effectiveness of the proposed Ordinance would be. We're going to talk about four provisions this evening. One of the Council Members is conflicted from the first discussion. My apologies, but we're going to truncate this a little. I'd like to just say we're going to be talking about boundaries of the affected areas, then we're going to talk about land uses subject to the annual limit and exemptions, then we're going to talk about the process and criteria, and then finally the applicability to pipeline projects. We'd like to segment this and talk first about boundaries before I continue with the rest of the presentation and discussion.

Mayor Holman: City Attorney, would you please speak to the conflicts issue that we have before us this evening.

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Molly Stump, City Attorney: Thank you, Mayor Holman. City Attorney Molly Stump. Council may recall that Council Member DuBois was conflicted and recused himself from the prior discussion on the growth limit. The reason for that is that the Council Member has Stanford University as a source of income, and Stanford is a major land owner of lands that are currently zoned office and R&D. The California Fair Political Practices Commission issued a written opinion based on the initial policy framing that was done by the Council that the decision to either include or exclude Stanford was sufficiently significant or could be sufficiently significant that he should not participate. As the decision has moved forward and is further defined, we have returned to the FPPC for further advice. They did issue a written opinion following up on their initial opinion and have ratified the following procedure. It is this. Council would first consider the question of confirming the proposed outer boundary of the regulated area which as proposed, as recommended by the PTC and by Staff, would exclude Stanford lands. Council Member DuBois should not participate in that part of the discussion and voting. If Council indeed confirms that that is the feature that you want in your Ordinance as far as the outer boundary, then Council Member DuBois may return to Council and participate in the remaining policy decisions about the type of regulation including the inclusion or exclusion of the coordinated area plans, the beauty contest, etc. With the Mayor's approval then, Council Member DuBois needs to identify Stanford as a source of income and recuse himself. We'll come and get you when this part of the discussion is over.

Mayor Holman: Council Member DuBois.

Council Member DuBois: I want to thank the City Attorney. We spoke to the FPPC this morning. I will be recusing myself because of my wife's employment for the discussion about the geographic boundary. Hopefully that will be a short conversation, and I can participate on the details of the process, exemptions and land use. I'll be recusing myself now. He left the meeting at 10:05 P.M.

Mayor Holman: Thank you very much. Hillary.

Ms. Gitelman: Thank you, Mayor Holman. I have two slides on the boundary question. As the Ordinance is drafted, it would apply to the boundaries shown in Figure 1 and in one of the attachments. It's Attachment G as referenced on the slide. Is the recommended boundaries from the Planning Commission. These boundaries include parcels in Downtown, the California Avenue area and El Camino Real Corridor that are zoned for office development. The boundaries are a little different than the boundaries in the Comprehensive Plan monitored areas designation. In general, they're a little larger than those areas, except in Downtown where

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they're a little smaller. What I would like to suggest is that we look at this map in Attachment G and defer for a moment a discussion about whether to include SOFA II in the boundaries. That's an issue that Council Member DuBois would like to engage in. We can have that discussion when we discuss land uses and exemptions. For now, we're hoping to get the Council's direction on whether you would like to accept the PTC's recommendations and approve the draft Ordinance with the suggested boundaries and set aside for a moment the exemption for coordinated area plans.

Mayor Holman: Council Members?

Council Member Kniss: (inaudible)

Mayor Holman: Yes. Having to do with boundaries, yes. Council Member Filseth.

Council Member Filseth: I'd be okay with the boundaries, but I'm concerned that the exemption for coordinated area plans—that a blanket exemption for coordinated area plans is way too big a loophole for this and merits significant further discussion.

Mayor Holman: Council Member Burt.

Council Member Burt: First, I'll follow on the question of the coordinated area plan. I think we had pretty strong unanimity that we want to see more specific or coordinated area planning done. I think we heard from the public, both those who are more concerned about growth and those who are less concerned about growth, also thinking that specific plans and coordinated area plans are something we should do more of. As I got to thinking about this, if we were to exempt coordinated area plans or specific plans going forward, rather than seeing the community embrace them, I would think there's a very good chance we'd have sizable portions of the community who would then oppose the use of coordinated area plans or specific plans because they would automatically break the office cap. That's not the outcome that we want. On the other hand, I think it's very possible that we will see that once we go through a planning process, we may say, "We've looked at this deliberately. We've had an extensive community discussion. We've had buy-in from a wide range stakeholders. The office cap should be adjusted by whatever amount according to what we anticipate within that coordinated area plan." I don't think making that determination one way or the other right now is the productive way to do it. I would advocate that we include coordinated area plans within the office cap with a guidance that we will have a specific Council action upon completion of those

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plans to determine what amount of additional or not additional office would be included in the cap.

James Keene, City Manager: Madam Mayor.

Mayor Holman: Can I say—I think we've gotten ahead of ourselves a little bit.

Mr. Keene: Yeah, I was ...

Mayor Holman: I think we've gotten ahead of ourselves a little bit. We're looking ...

Mr. Keene: It's a good discussion, but if you could bifurcate it ...

Mayor Holman: It needs to ... (crosstalk).

Council Member Burt: That's right. It came up under a boundary. Maybe it's ...

Mayor Holman: It did.

Mr. Keene: I think that if we could be cognizant that—if you could deal with the Stanford issue, then Council Member DuBois can be here for the discussion.

Council Member Burt: All right. Let me then—after I spoke extensively to that, let me leave it for a moment. On the Stanford side, we had significant discussion about under what conditions we would exclude Stanford from the initial office cap. I spoke to that at the Council meeting at the time. Stanford had made—there were reasons why they potentially should be carved out. The most important thing in my mind was that they would need to demonstrate between now and the adoption of the Comp Plan that they had implemented a comprehensive transportation demand management program for the Research Park. I didn't see any follow-up on that. Is there any development? This influences my and perhaps others' determination on whether they should or should not be included in the cap.

Ms. Gitelman: Thank you, Council Member Burt. I do recall that conversation and the Council exhorting us to work with Stanford as we developed the Comprehensive Plan to make sure that issue was thoroughly addressed. We have a member of Stanford's team on our CAC for the Comp Plan Update. We fully intend to include something, as the Council suggested, in the policies and programs in the Comprehensive Plan. We have not yet developed the plan language, come up with the requirements or gotten to any level of specificity. I do also recall that it was the Council's

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direction to exclude—to focus the annual office limit on the three areas that we have focused on here.

Council Member Burt: Right. It was contingent on this action by the Research Park. My concern is I don't want to wait two years to find out whether they've done it or not. I don't think it should take that long. It's not before us tonight as an action, but it does influence this final decision do they get included or not. What would be a proper way for us to tonight—can we ask for an update within a certain period of time on the status of this TDM program so that we can, if we found that it was not adequate, we might reconsider their inclusion at a future date.

Ms. Gitelman: Thank you, Council Member Burt. We'd be happy to come back with a status report after we have some discussions with the Stanford representatives on this topic. We're trying to schedule something in the future while the Transportation Element is being discussed by the CAC. We should be able to give you a status report at one of the upcoming meetings about the Comp Plan.

Council Member Burt: I think that frankly Stanford's potential inclusion in this is the best motivator for them to cooperate with us and come up with a really great plan which they've said they wanted to do. Stanford kind of has a history of not wanting the City to butt into their business. I think that this is an occasion where this process will drive collaboration on what may be a really productive plan, but I think we need to have a pretty explicit timeline on this happening and not just allow it to be perhaps achieved in the course of the Comp Plan process.

Mayor Holman: In an effort to—we have five lights all speaking to boundaries.

Council Member Burt: Maybe I'll wait until we wrap on the motion and include ...

Mayor Holman: I was going to suggest that—just to try to help move us along, if you don't have a motion, I'm going to make a motion to try to ...

Council Member Burt: Go right ahead.

Mayor Holman: I'm going to move that we—I'll get to the next three of you. Apologies for this, but I want to help move us along. I'm going to move the recommendation of boundaries as identified in the Staff Report with the proviso that Staff come back within six months with a report on Stanford Research Park reduction of single occupancy vehicle trips.

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Council Member Kniss: Second.

MOTION: Mayor Holman moved, seconded by Council Member Kniss to adopt boundaries as identified in the Staff Report and direct Staff to return within six months with a report on Stanford's progress on reducing single occupancy vehicle trips generated by Stanford Research Park.

Mayor Holman: I don't think I need to speak to it any longer. I think it's pretty clear what the intention is. Council Member Kniss, do you want to speak to your second?

Council Member Kniss: Excuse the cough drop. I do. I think that the Planning Commission really thoroughly vetted this. I was really pleased with what they had to say. We haven't got into yet the coordinated area plans, but they seem quite comfortable with the suggested boundaries even after we had gone around and around about this before. I think it's time to come to an agreement on it. I think especially for the next two years these will be a very good—as the Vice Mayor said earlier, we're doing a number of experiments tonight. This is one of those. Will this work? Is this a good experiment? We'll find out either at the end of the Comp Plan or at the end of two years.

Mayor Holman: Two things. The rest of the motion up there is within six months with report on Stanford's progress on reducing single occupancy vehicles. Also, I was just reminded—so many moving parts to this. I was also reminded that I have six cards from members of the public. If anyone wants to speak to the boundaries issue specifically? Seeing no one. Doria Summa and Bob Moss, I see both want to speak to the boundaries issue specifically. Ms. Summa, you'll have three minutes.

Public Hearing opened at 10:17 P.M.

Doria Summa: Thanks. (crosstalk).

Mayor Holman: Again, speaking to the boundaries.

Ms. Summa: Thanks. I won't take three minutes. I just want to thank you for looking at this and thinking of a cap. I think it's absolutely necessary. I would urge you to make it Citywide. I think there's a sense of fairness when you do things Citywide. I also think you will avoid the problem of unintended—squishing the toothpaste tube someplace else, controlling something here and having an unintended consequence elsewhere. As to Stanford as the largest employment center in Palo Alto, I'm not sure how you can just leave it out. I don't know what the answer. I will just put that out there as the question for all of you. Thank you.

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Mayor Holman: Thank you. Bob Moss, who wants to speak to boundaries.

Bob Moss: Thank you, Mayor Holman. As you may recall when this was discussed previously, I said if you don't include the entire City, you're going to force office development in other areas like Bayshore and San Antonio. The simple way to do it is 50,000 square feet office development Citywide period. Don't try to pick and choose. You could temporarily exclude the Stanford Research Park, because that's addressed under a very different process. There's an agreement between the City and Stanford about how much total development they can put in and in exchange what they can do and what they can't do. It's not unreasonable to exclude the Research Park, but the rest of the City, just include the entire thing. One of the things that is important to bear in mind is that—the Staff Report hints at it—office rents are significantly higher than retail rents. You may recall during the dot com boom the office rates in Palo Alto were the highest in the entire world, about \$9.85 a square foot per month. They've gone down since then, but they're still quite high. It's more—let's say it gives a higher return to the property owner if he rents out for office space than for retail space. That's demonstrated by the Table 1 in your Staff Report. In the last 15 years, Downtown and El Camino have lost about 73,000 square feet of retail but gained about 370,000 square feet of office space. The areas which are allowed to develop office space will develop office space. As we well know, offices have a lot of negative impacts. I don't believe the figure that the Chamber of Commerce put out, that the average office worker occupies over 380 square feet. That does not compute. That's not my experience with office uses in Palo Alto. I can't imagine people paying that amount of rent, \$6 or \$7 a square a foot, and not stacking as many workers in as they possibly can. I would suggest—one other point. The 50,000 square foot limit would not have a significant negative impact on normal developments. Two-thirds of the years between 2000 and 2015, the actual amount of office space developed has been less than 50,000 square feet. The average for that 15 years is about 42,000 square feet. It would not be a really serious negative impact on the developers, on the office use or on the community. I urge you to adopt it.

Mayor Holman: Thank you. One more speaker to speak to the boundaries issue who is Joe Hirsch. You'll also have three minutes. Thank you for coming.

Joe Hirsch: Mayor Holman, one question for you. Should I make all my comments now or just limit myself to the boundary issue?

Mayor Holman: You may do it either way.

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Mr. Hirsch: Either way, okay.

Mayor Holman: Just indicate what you're doing please.

Mr. Hirsch: My comments are short, and I will probably read them to make them even shorter in time.

Mayor Holman: Are you speaking to the boundaries or the whole issue?

Mr. Hirsch: That's first, yeah.

Mayor Holman: Just boundaries.

Mr. Hirsch: I'm going to do both.

Mayor Holman: Great, thank you.

Mr. Hirsch: Sorry. The executive summary states the City of Palo Alto and the region have experienced dramatic job growth resulting in increases in traffic, parking demand and other impacts of growth. We all know that to be true. There's no question about it. Council Member Kniss referred to it in the prior item regarding people driving around trying to find parking spaces, etc. Why would we make matters worse? I think here what we should do, at least for a significantly—a somewhat longer period of time, maybe three or five years—is have a Citywide moratorium or Ordinance that affects development Citywide. As Bob Moss I think said, if you don't include the entire City, it will just drive development into other areas which will make those matters worse. For example, San Antonio which at times is a parking lot. I drive past that, thankfully, but I do look at it. Every now and then, from Middlefield to the rise over the railroad tracks, there are two lanes of traffic. I think that's about half a mile long. I would propose, as the two other speakers have, that the Ordinance should be Citywide. It should be for a longer period of time, maybe three to five years, to give adequate time to see if improvements can be made that would permit additional new development, and that the number of square feet in any annual limit should be significantly less so not as to further cause adverse consequences which this community is now experiencing and people simply don't want or need. Thank you.

Mayor Holman: Thank you. I realize the Motion should be a little bit more specific. Single occupancy vehicles generated by Stanford Research Park. Council Member Kniss?

Council Member Kniss: I think it's one that (inaudible) mentioned at a previous meeting.

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Mayor Holman: A second piece, because this is boundaries issue still. It's good that Council Member DuBois is still out of the room. A second piece I would add to that is direct Staff to return within six months with (1) a report—or (a)—and (b) a report with potential action on office applications received in areas outside the boundaries.

Council Member Kniss: (inaudible).

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion, "to direct Staff to return within six months with a report with potential action on development of office space outside of the boundaries."

Mayor Holman: I have several lights from Council Members, and I don't know if they wanted to speak earlier or not, but I'll take them in order and presume that they wanted to speak to the boundaries issue, which is what the Motion is. Council Member Wolbach.

Council Member Wolbach: I've actually never been comfortable with just highlighting our transit oriented areas as the places where we would not want to focus any potential office development. I like the idea of making this Citywide. If we're going to do this, I think it should be Citywide if there is a way to exclude the Stanford Research Park from that tentatively, where we might loop them back in. That might diminish the ability of one of our colleagues to participate if there's still a chance that Stanford might be included. If there's a way to exclude them, I'm open to ideas about that. I live pretty near San Antonio. Joe Hirsch is right; it's a parking lot. I'm not sure if the language in Part b here is strong enough.

Mayor Holman: Council Member, I'm going to be a little aggressive here with folks. Bear with me. If you have an amendment or a substitute Motion, I'm happy to entertain it.

Council Member Kniss: Could I do one point of information? We have an Ordinance that we're working from. I presume we can change it as we go along. Could we just have a comment from the City Attorney.

Ms. Stump: Thank you, Council Member Kniss. You can certainly make amendments to the Ordinance. However, what's been proposed and noticed to the public and the various stakeholders does not include regulating through this office cap mechanism areas outside of that that was recommended by PTC and the Staff. If the Council is interested in doing that, we will be directing that you should put this item over and notice more broadly to allow everyone notice that you're going to be potentially regulating in these other areas, south of town and Research Park, etc.

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Mayor Holman: Given that, Council Member Wolbach, are you okay with the language in "b"? It does say report with potential action.

Council Member Wolbach: I guess the question is then what kind of timeline are we looking at for that then?

Mayor Holman: It says within six months.

Council Member Wolbach: There you go. Okay.

Mayor Holman: Council Member Scharff.

Council Member Scharff: I agree with this Motion with the exception that I think it should say a report with potential action on development in the Stanford Research Park. That's what this was about. This was about whether or not they are looking at TDM programs and whether or not they're implementing them. Not whether or not we're going to then extend this Citywide. That's a completely different take on what Council Member Burt was talking about. I would suggest we say a report with potential action on including the Stanford Research Park.

Mayor Holman: You're saying you want to amend "b" to say a report with potential action on development ...

Council Member Scharff: I want to limit that to the Stanford Research Park. I want "b" to do that. I don't want it to be a report on action Citywide. I think that's silly. We've just gone through a whole process on boundaries. Now, why would we look at doing it Citywide? What we've talked about is whether or not Stanford's taking seriously our ask on a TDM program.

Mayor Holman: I wouldn't accept that. The reason is because I think what you're hearing from the public and actually where my thinking was too is, like, we don't want to do something here which is going to cause adverse effects someplace else. That's what the purpose of "b" is.

Council Member Scharff: If you made the argument that in two or three years, you're not going to know anything different in six months than you know now. Six months is a really short period of time.

Council Member Berman: I'll second your amendment.

Mayor Holman: I'll look to Staff and see if six months is reasonable or if a year is more likely to have ...

Ms. Gitelman: Thank you for the question. I was actually going to interject that what we're talking about here is an interim Ordinance that's going to be

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in place for two years or until the Comprehensive Plan is completed. We think—it was the Council's intention, and we agree, that it will take at least that long to see how it's working. The intention, I thought, of the Council was once we see how it's working to either include something similar to this in the Comprehensive Plan Update or to modify it and expand it or contract it or change it as needed at that time. The two-year period, I thought, was a Council suggestion intended just for this purpose, to be able to tell if it's working or if it should be expanded or extended to other parts of town.

Mayor Holman: I still think it makes sense to do the six months on Stanford Research Park though. Yes?

Ms. Gitelman: I'm sorry to ...

Mayor Holman: The TDM aspect ...

Ms. Gitelman: ... disagree. On the TDM, of course, we're happy to get back to you on that.

Mayor Holman: ... which is "a."

Ms. Gitelman: It's just development doesn't happen at a pace that six months would tell you much of anything on "b."

Mayor Holman: I'm a little bit concerned about waiting two years having to do with "b" though, and that's why I put that out there. I'm happy to make it a year instead of six months. But two years?

Ms. Gitelman: Again, I think we came into this with the Council's direction. I thought that direction was to craft an interim Ordinance that would allow us to test this idea of an annual limit on a subset of the City. If you want to modify that, we can go back to the drawing board. We were thinking, though, that this would not be a full employment act, that once we had an interim in place, we would focus on the Comprehensive Plan Update and what kind of growth management strategies to include in that. There wouldn't be another interim step on the way to a final recommendation.

Council Member Scharff: Are you accepting my amendment?

Mayor Holman: How is your—your amendment really is just with including Stanford Research Park. I'll wait and see what other people have to say.

Council Member Berman: I'll second it.

Mayor Holman: Council Member Berman has seconded your amendment.

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AMENDMENT: Council Member Scharff moved, seconded by Council Member Berman to replace in the Motion, "on development of office space outside of the boundaries" with "on including Stanford Research Park."

Mayor Holman: Council Member Berman.

Council Member Berman: Did you get a chance to speak to it?

Council Member Scharff: No, I didn't.

Mayor Holman: I'm sorry. I thought you had.

Council Member Scharff: Let's start where we started in this in the beginning. We said we were going to do an interim Ordinance in these three areas, California Avenue, El Camino and Downtown. Council Member Burt rightly raised the issue of we said we were going to exclude Stanford but we wanted to see progress on the TDM. If we don't see that progress, we may consider including them in it. I think it's good to have a report on Stanford's progress, and I think it's fine to have some possible potential action if Stanford is not making any progress. We can make that decision then. I think that's fine. What I don't think is fine is that to take an interim Ordinance where we said the whole plan is that we're going to look at this for two years, see how it goes and then go through the Comprehensive Plan process and then to say after a year or after six months, maybe we want to extend this to the whole City. That's makes no sense in terms of where we were thinking and in terms of crafting this whole process. Therefore, I think this is a good amendment. I think it doesn't make any sense to be looking at the entire City in six months or a year. It sort of makes the whole idea of an interim Ordinance crazy.

Mayor Holman: Council Member Berman.

Council Member Berman: I think Council Member Scharff is absolutely right. On top of that, when are we going to let Staff actually do the job we asked them to do? When are we going to stop distracting them from all the things that we've already piled on? To ask them to—rather than actually monitoring and achieving—not the redo, but the update of the Comp Plan, focusing on the TMA, the RPP and the TDM and paying more attention to Stanford Research Park. To then bring up this massive, I think it would be, new idea of reviewing ideas outside of the boundaries, it just doesn't—a year before it'll already happen anyhow, it's just a waste of time. We've been doing a lot of that, and I wish we could actually start focusing.

Mayor Holman: Council Member Filseth.

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Council Member Filseth: Thanks. I have two questions. One is in the main Motion. Where it says to adopt boundaries identified in the Staff Report, is it clear from that that we are not also approving the exemption for the coordinated area plans? Does that need to be more ...

Mayor Holman: We're not talking about those yet.

Council Member Filseth: That doesn't need to be more explicit. On the issue we're discussing right now, which is—the business of the interim Ordinance and the two years is—it's actually kind of irrelevant to the discussion that we started out on. The question that got asked was should the Council decide right now to extend this to the whole City instead of just the three areas. The answer from legal is in order to take that action, it would have to be noticed and agendized and so forth, so we couldn't do it tonight. The Motion, part "b" got added to say we'll give it some time to be agendized and for public discussion and so forth. It really doesn't have anything to do with the duration of the interim Ordinance. There shouldn't actually be—if the intent is to allow the Staff or to allow the Council to vote on extending it to the whole City, there shouldn't be a heck of a lot of work on the Staff's part to do any analysis. I mean, really the issue is not Staff analyzing. The issue is it has to be noticed and agendized. I don't see why the argument of "b" is going to overload the Staff, and it's inconsistent with the interim nature of the Ordinance. I think that's all irrelevant. I think the issue is do we want to vote on it as a Council. If so, it needs to be agendized and noticed. I think that's the real issue around that. As far as Stanford, I agree. I think we've captured that in "a." I don't think—if we really want to add some more in there, I guess we could. There's another bullet, but I think we've pretty much captured it in "a."

Mayor Holman: Vice Mayor Schmid.

Vice Mayor Schmid: I was struck by the PTC Minutes that were included. Five of the six members who participated said the interim Ordinance isn't solving the problem. The Council needs to do the Comp Plan. We have a scheduled date, October 5, to deal with land use including L-8 in the Comp Plan. The interim Ordinance as defined is a nice interim Ordinance that would give us something for two years. The important thing is what are we doing to do on October 5th with L-8. That's, for me, the issue.

Mayor Holman: Any other comments, Council Members? We will vote on the amendment please. You'll note I ended up voting for that, but I have something else coming. That amendment passes. That's right, Council Member DuBois is out. That amendment passes on a—what is that?

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Seven—excuse me a 6-2, 6-2 with Council Members Filseth and Wolbach voting no. That is incorporated into the Motion.

AMENDMENT PASSED: 6-2 Filseth, Wolbach no, DuBois not participating

Mayor Holman: Going back to the main Motion. If I can see that. Going back to the main Motion. I'm still interested in adding a "c" which was essentially "b" from before but one year.

Council Member Kniss: Which was what, Karen?

Mayor Holman: One year. It's essentially what was "b" before but with one year.

Council Member Scharff: Didn't we just vote on (inaudible) not going to be raising some issue (inaudible).

Council Member Wolbach: We've moved onto another agenda item. (inaudible).

Council Member Kniss: (inaudible) complicated given that we've just adopted (inaudible).

Mayor Holman: But "c" is one year, not six months. It's just a report coming back from Staff to see if we've really created some kind of issue. Is that acceptable, Liz? Liz is not accepting that. I'll offer it as a separate amendment. I don't see a second to that. Council Member ...

Council Member Wolbach: I actually have (crosstalk) if you'll allow me to suggest an amendment.

Mayor Holman: You'll have to second it first.

Council Member Wolbach: I'll second it.

AMENDMENT: Mayor Holman moved, seconded by Council Member Wolbach to add to the Motion, "to direct Staff to return within one year with a report with potential action on Office/R&D development applications outside of the boundaries."

Mayor Holman: Council Member Wolbach.

Council Member Wolbach: Actually I don't want to create a ton of work for Staff. I don't think we need Staff to give us a big report about potential development in other parts of the City, just let us know how many

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applications have been put in in other parts of the City. That wouldn't take a ton of Staff work, right?

Mayor Holman: Council Member Burt.

Council Member Burt: I concur that Staff is already looking at this Citywide, and it's just going to be a different column on a spreadsheet. I don't think it's a big deal. I think it'll be informative to the Comp Plan process as well as to us. We say a report. Is this intended as an informational report? Then we could always choose to agendize it if we saw a problem.

Mayor Holman: Exactly.

Council Member Burt: If we add informational report, that would get my support.

Council Member Wolbach: It would be an informational report on office and R&D development applications outside of the boundaries.

Mayor Holman: I'm fine with that.

Mayor Holman: Council Member Berman.

Council Member Berman: I mean, this is moving in a much more responsible direction, but what's this "with potential action"? It's an informational report with potential action on office.

Council Member Wolbach: Yeah, we should drop the potential action part.

Council Member Berman: If that's stricken, then this is a whole different thing that I'd be more comfortable with.

Council Member Wolbach: I would be okay with that.

Mayor Holman: Those are ...

Council Member Berman: I mean, what kind of potential action is the maker of the Motion ...

Mayor Holman: Those are kind of conflicting. The information report— Council Member Burt, you'd suggested the information report, but it is kind of conflicting.

Council Member Burt: I just would like it if we don't characterize Motions as being responsible or irresponsible. I think we could move along a lot better if we don't do that.

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Council Member Berman: Are we keeping "with potential action" in there?

Mayor Holman: Yes. Take out "informational" and put "with potential action." Are you good with that, Council Member Wolbach?

Council Member Berman: It was the other way.

Mayor Holman: We're fumbling here.

Council Member Wolbach: I think—well, let's pick the ball back up. I think we're actually okay. I think we're—responsible or irresponsible, I think what we're moving towards is consensus agreement, which would be nice, on an issue that's been so controversial. I actually think that ...

Council Member Berman: We just went backwards.

Council Member Wolbach: ... Berman's suggestion actually works because what Berman and Burt both suggested worked together. What we'll have is we'll have information in a year on how many applications have been submitted for office and R&D. Based on that informational report, then we'll be able to look at it and say it's good and this is working, the boundaries are working, or it's bad and we need to take action at that time. It gives us the information we need to evaluate and it also gives us some flexibility then, gives us a chance to test this out a little bit. It doesn't wait a whole two years. Going back to the analogy, if the toothpaste is starting to get squeezed into other parts of the tube, we'll be able to see it a little bit sooner, rather than waiting for the whole Ordinance to run out.

Mayor Holman: I believe Council Member Kniss was the next light.

Council Member Kniss: I'm not going to support this. I think we're getting more and more complicated. We had a very difficult time with this at the beginning. We have managed to come with an Ordinance tonight that is still going to take a good deal of time. I think one more report for the Staff to come back with—we're going to hear about this regardless. I don't think we need to add one more complexity to this particular issue. I'm just voting no on it.

Mayor Holman: I have lights still from Council Members Scharff and Berman. Do we need to have more language, more conversation on this

Council Member Scharff: Yeah, we do. I'll make an amendment to your Motion, to your amendment. I'll move what Council Member Burt had suggested, what was up there previously, which was—if we'd just let it sit

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for a second. I'll move that we add to the Motion—let's see—an informational report on office/R&D applications outside of the boundaries.

Mayor Holman: What I'm trying to get at is efficiency. If we have an information report and we want to do something, then we've got two steps. I'm just trying to make it efficient.

Council Member Scharff: It may be completely inefficient to do that way, because then we feel like we have to take an action. Whereas, if we just (crosstalk) information report ...

Mayor Holman: An action can be no action.

Council Member Scharff: Then we have to agendaize and discuss it, which takes hours. It's much more efficient to have an information report and the (crosstalk).

Mayor Holman: So does Council Member Berman, before you, Pat. I'm sorry.

Council Member Berman: I mean, I was going to say exactly what Council Member Scharff said. I guess if that's not accepted, then I'll second his amendment. I'm not sure where we are at in that process right now. Maybe I'll ...

Mayor Holman: If you second his amendment, that's where we are.

Council Member Scharff: When do we get to speak to it?

Council Member Burt: I'll second the amendment.

Mayor Holman: Council Member Berman just did.

Council Member Berman: I'll let Council Member Burt second it, happily.

AMENDMENT TO THE AMENDMENT: Council Member Scharff moved, seconded by Council Member Burt to add to the Motion, "to direct Staff to return within one year with an informational report on Office/R&D development applications outside of the boundaries."

Council Member Burt: I'll just say that an informational report is not going to be two actions by the Council. It would be information provided by Staff.

Female: (inaudible) two steps, two steps to (inaudible).

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Council Member Burt: No. Excuse me. There would be no two Council agendized items. It would be one, other than Council Members asking for an item. It would be agendized if they saw a problem. I think this is the better way to do it.

Mayor Holman: Seeing no other lights, vote on the amendment please.

Council Member Scharff: We're voting on the substitute amendment?

Mayor Holman: You're voting on the amendment, the last amendment. That amendment passes on a 6-2 with Mayor Holman and Council Member Kniss voting no. That's incorporated.

AMENDMENT TO THE AMENDMENT PASSED: 6-2 Holman, Kniss no, DuBois not participating

Mayor Holman: Where are we now? We need to vote on the main Motion then, which is to adopt the boundaries identified in the Staff Report and direct Staff to return within six months with a report on Stanford's progress on reducing single occupancy vehicle trips generated by Stanford Research Park and (b) also within six months a report with potential action on including Stanford Research Park and (c) within one year an informational report on office/R&D development applications outside the boundaries. With that, vote on the board. That passes on an 8-0 vote with Council Member DuBois not participating.

MOTION AS AMENDED PASSED: 8-0 DuBois not participating

Mayor Holman: Vice Mayor, would you care to get Council Member DuBois. Sorry for the fumbling around with that one.

Council Member DuBois returned at 10:47 P.M.

Mayor Holman: We can continue now with the Staff presentation.

Ms. Gitelman: Thank you, Mayor Holman and Council Members. I'll try and get through the end of this. There was a little bit more bumbling around. I notice that the PowerPoint version we have on the screen doesn't precisely match the one you have in hard copy. The one you have in hard copy was later and was structured a little better to facilitate this separation of issues, but they're very similar. I will note any corrections I need to orally. As I mentioned earlier, there are really four issues to talk about. We've talked about the boundaries of the affected area excluding the coordinated area plan. We're going to talk about that in the context of the land uses and exemptions in the Ordinance. Then we're going to talk about the process

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and criteria for implementing, and then finally we're going to talk about the issue of the pipeline projects and the exemption of pipeline projects. Skipping ahead to land uses and exemptions. The Council gave us very specific direction in earlier hearings about how to frame the Ordinance and what uses it would apply to. It would apply to all of these office and R&D categories; R&D, administrative office services, general business office, medical offices over 5,000 square feet and professional offices. In terms of the exemptions, there is an exemption suggested in the Ordinance. It's not listed here, but it's in the Ordinance for SOFA II and other coordinated area plan areas. I expect we will want to talk about that. There are in addition other exemptions for uses less than 2,000 square feet. I already mentioned medical offices less than 5,000 square feet. We're exempting a class of projects which the Council referred to as self-mitigating projects in the original Motion. We're exempting City government offices. Also, noting for the record that accessory office uses and home occupations would not be affected. Finally the exemption for pipeline projects that we'll talk about in a moment. Maybe I'll get all the way through the presentation and we'll come back. The next question I want to pose for the Council is this question about coordinated area plans and whether those should be exempted. Just to move on to the process and criteria. Essentially the way the Council and Staff discussed this originally, we would accept and process applications for office and R&D projects like we do currently in the affected areas of the City. They would be reviewed by Staff. We would prepare CEQA documents. They would be reviewed by the ARB and other recommending bodies. Those bodies would make a recommendation, but the final action would not be taken until March 31st of the fiscal year. At that point we would evaluate whether the office annual limit was potentially going to be exceeded. If the answer is no, the applications would be approved and processed as usual. If the limit would be exceeded, then the applications would be reviewed against the criteria and brought to the Council for a decision on which applications would be approved and which would be denied or deferred to a future year. The Council articulated very clearly for us in an early Motion the criteria that you would like to see applied for the review of applications in those years when the total square footage exceeded the annual limit. These are outlined in the Ordinance you have in front of you. We have two questions with regard to the process and criteria. The first is would the Council like to reconsider the use of a competitive process and instead rely on some kind of first-come-first-serve. I'll explain the reason for this in a moment. The second question is if the Council elects to maintain a competitive process, would you like to somehow weight the criteria that are included in the Ordinance. Really, the reason we're asking these two questions is we heard at the PTC and from members of the public that the unweighted criteria in a competitive process creates a very uncertain outcome for the public and for the applicants. If we could add some

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specificity, either a clearer, easier to administer process with a first-come-first-serve system or a process that had weighting for the criteria there would be a little more certainty, people would be able to a little more anticipate how different projects would be judged as they move forward. Those are two questions we pose for you in the Staff Report. Let's talk briefly about pipeline projects. In this context, we're defining pipeline as pending applications for discretionary approvals that would result in a net increase of office/R&D space within the designated boundaries. Council's direction was to exempt pipeline projects that had been deemed complete prior to March 31st, 2015. The Council directed—there is an error in this next bullet—that projects deemed complete between March 31st and—it should say—June 15th would be recognized in the criteria. The criteria slide earlier included, I think, that same mistake. It should be June 15th. The final bullet there, we're asking Council whether you would like to reconsider the March 31st date based on the elapsed time that's occurred since your first discussion in March. I have a slide that shows the pipeline projects. This is going to be much easier to see in the Staff Report. I wanted to give you a sense of what the universe of pipeline projects looks like. You do have this information in your Staff Report. This is as of August 31st, and there have been a couple of changes since August 31st. Let me just point out to you, the three blue lines up there are projects that would be exempted from this Ordinance the way it's currently drafted. One of them, the last on the slide there, is outside of the area we've defined. It's in the Research Park. The next one up, it's on El Camino, was received and complete prior to the March 31st date that's articulated in the Ordinance as was the 429 University, the top blue line there. Those three projects are exempt from the Ordinance as it's currently drafted. You'll note there's a yellow arrow there pointing to a project on High Street. That project is in SOFA II. It's actually been amended since this chart was created, since August 31st, to include only 5,000 net new square feet of office/R&D. It has been reduced in size, but that row would also be exempted from this Ordinance if the Council chooses to accept the PTC's recommendation and exempt coordinated area plans. The four green arrows you see, I think we point out in the Staff Report. If the Council were to reconsider the March 31st date and use instead June 15 or the effective date of the Ordinance, those four applications would be exempt, pipeline projects would be exempt. These were applications that in some cases were deemed complete just days after the March 31st date selected by the Council at your last meeting. The question we have for the Council on pipeline projects is does the Council wish to reconsider the March 31st date for exempting pending applications due to the passage of time and instead use the June 15th date or the effective date of the Ordinance. Just to wrap up. I have a couple more slides. The policy implications, we've talked about this before. This is going to be a trial period while the Comp Plan is being updated. It does increase

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uncertainty for property owners, developers and the public, elongating the entitlement process. Our view is that if this type of system were made permanent, it does have the potential to direct office/R&D growth to other parts of the City, but our professional thought was that in a two-year period, it's hard to make really significant shifts in the market, and we wouldn't see that kind of shift happening in the interim. We would have to evaluate it in the Comp Plan EIR as a longer-term impact of this kind of program. We've included it in a couple of the hypothetical scenarios we're analyzing in the EIR for that reason. In terms of timeline, if the Council were to accept the Ordinance tonight and choose to move forward, it would be subject to a second reading which could be noticed for October 19th, and it would be effective 30 days later which is around the middle of November, on November 18th or 19th. That's essentially it. As I indicated, I think the questions we have remaining for you are first coordinated area plans, should they be in or should they be out; second, the process and criteria, would you like to stick with a competitive process or shift to something like a first-come-first-serve; would you like to stick with unweighted criteria or provide some weighting in the Ordinance or direct Staff to include some weighting in the administrative guidelines implementing this Ordinance; and finally the pipeline definition. Those are four questions that we still need your input on.

Mayor Holman: Thank you. I have currently five cards from members of the public. Because we broke this into two different parts, I want to make sure that everyone who wants to speak to this part of the item has a card on file here. Ray Paul, Steve Pierce, Stephanie Munoz, Peter Stone and Terry Holzmer. If anybody else wants to speak to this part of the consideration, then please turn in a card at this time. First we have Ray Paul. You'll have three minutes. To be followed by Steve Pierce, who I don't see.

Ray Paul: I'm here speaking on behalf of Jay Paul Company. In particular at the June 15th meeting, I'm here to speak to the pipeline projects. The first two projects here are Jay Paul Company projects. The first thing I'd like to say is by our accounting, it's not the 3045 Park Boulevard Project is not a net 29,000. It's a net 11,000. There's an 18,000 square foot building there now, and that building is zoned in such a way that R&D/office is a permitted use today. Just as a matter of simple reality, if we were forced to, we would repurpose the building that's there for R&D/office, which is permitted today. Our accounting is that between the two projects at 2747 and 3545 respectively, we're talking about a net 40,000. That makes a difference in what I'm about to say. I think wisely the Council on the 15th exempted pipeline projects. And why? What was the purpose? What was the point? Developers spend money to do developments. We're a half million dollars, in fact we were a half million dollars as of June 15 into this process whether these two properties. We've since committed to spend another 65,000 at

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least on the EIR for these two projects. That doesn't count our time. If we started counting our time into this, we'd be talking numbers well up into the 600,000s. That's our commitment. These projects that we've put forward, when we put them forward, we did it with the idea of following what the public had been telling the Council up to that point in time. What they had been saying was, "Let's make these developers develop according to zone." These projects are entirely according to existing zone. The real point that I want to get to is that it's simply unfair to say to some developers who have made no more commitment than we have on a financial basis—after all, that's the commitment that developers make—yes, you can go forward and to say to us 2 1/2 months later, in other words you've backdated your—June 15 is when we first knew that there was inkling that we couldn't go forward. We were approved almost—not approved but application complete some 2 1/2 months before. That's making a distinction between us and other developers without a difference. It's arbitrary. Thank you.

Mayor Holman: Thank you. Next speaker is Steve Pierce. I don't see him. The next speaker is Stephanie Munoz, to be followed by Peter Stone.

Stephanie Munoz: Last time. Good evening, Council Members. For goodness sakes, don't hire another consultant. I've listened and, even though it took a long time, it seems to me that the comments of the Council Members were very well thought out and very complete. If you have any reservations that something might not have been included, you could certainly say what the intent of the Council is, a little preamble-like thing. We're much in favor of ground-floor retail. We don't want to lose it, but we want to protect other businesses that are already there. I think it's going to work out really well. I think Mr. Moss' comment was well taken that a cap on development ought to be Citywide. I think the Stanford Industrial Park in spite of its name could have a few houses too. I wouldn't say single-family houses, but they could be compatible. I also have only one worry that the cap is not to go on forever. You have to realize that at some point the City will be full. Every single piece of property will have five stories with a garden roof. Then you'll have to look around and, my goodness, you've got to fill up this office space and put some more places in all the open space. There has to be realization that at some point, maybe not for a long time, maybe in the year 2060, but at some point the town will be full and you've got to stop. I would say that wherever someone wants to put more offices than are already there, that you insist that the extra space not go to offices but go to housing of whatever quality or whatever income level. The developers can still make money on housing, you know, just not quite as much. Good luck. You're really thinking hard, and I admire the thought that you're putting into it over all this time. I think you're going to get a product that you really like and that will do everything that you want. Good luck

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Mayor Holman: Thank you. Peter Stone to be followed by Terry Holzmer.

Peter Stone: Mayor Holman, Council Members. I'm Peter Stone speaking on behalf of the Palo Alto Chamber of Commerce. Our recent letter's in the Council record; I'm sure you've seen it. I am not going to repeat everything in that letter, but I wanted to basically voice kind of a business perspective on the proposed cap. Obviously I'm not speaking to the specific questions that the Staff is asking for responses too. I did want to highlight what for us was important which is some new data that's emerged from the TMA that I think raises further questions in our minds about the efficacy of the cap as a way to address the issues. Obviously business shares the concern voiced by many residents with respect to traffic, parking and housing. In truth, a healthy community is extremely important to businesses that are operating here. We also think that a healthy business climate is important to many residents and to you, I'm sure. The Chamber is active in the TMA at this point, plans to remain so. We're also supporting a trip reduction initiative. We're trying to connect come of the folks that are coming forward with rather innovative solutions to encourage shared commutes to meet with some of the larger employers in town to try to see if they can develop enough of a concentration of potential users to actually make shared commuting much more effective than it's been in the past and eliminate some of the problems that have been associated with prior carpooling initiatives. I guess what we would like to see is that the Council and the Staff pay a great deal of attention to the data that is still being developed and continue to recognize and foster the innovation that's taking place in a very dynamic way around these issues. We think that the entire discussion of growth limits would be better served in the Comp Plan process as opposed to through the adoption of the interim Ordinance. Thank you.

Mayor Holman: Thank you. Our final speaker on this item is Terry Holzmer.

Terry Holzmer: Good evening, Mayor Holman and City Council Members. I'll keep my remarks as brief as I can. I come to you tonight not only as a resident of the California Avenue area, but also as a member of our association at Palo Alto Central, which is largely affected by what has occurred in the California Avenue are, the growth of office space. We're very concerned about this growth, and we'd like to see what can be done to control it. We've noticed a large increase in daily traffic and parking problems in our neighborhood. We see this on a daily basis. I guarantee you that if you took a residential survey in our area, California Avenue area, you would get overwhelming support for an office space cap. It's because people do live in this neighborhood. A lot of times people forget that California Avenue is great commercial area, but it's also a residential neighborhood. People live there. They go to shops there. They visit the

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stores. They visit the restaurants. We care about this area. We love this area. We want to protect it and want to make it better. We need a cap of office space in our neighborhood, because it's just as valuable as Crescent Park or other more valuable neighborhoods. As long as there is no cap, our growth there will be unabated and will continue to have effects on our environment and will continue to make our lives worse. The jobs/housing imbalance is a major concern in our area. There are more office spaces going up than there are housing. You need to balance this out somehow. I encourage you to consider a real cap, especially in the California Avenue area. Thank you.

Public Hearing closed at 11:09 P.M.

Mayor Holman: Thank you. With that, we return to Council. Before us—I don't have anything exactly like this. What you're looking for is to talk about first whether to exempt or include the coordinated area plans. Is that correct? Okay. Council Members. Vice Mayor Schmid.

Vice Mayor Schmid: I'm trying to integrate what I read from the two meetings of the Planning Commission, where five of the six members got up and said, "We shouldn't be doing this. Staff shouldn't be spending their time. It's far more important to deal with the Comp Plan issues." They pointed to what's here as something that has boundaries in it, exceptions, exclusions, pipeline projects. Each of those is a danger to an overall limit. There's a nice example, Page 119 of the packet says the City's Comp Plan contains an overall cap on non-residential development that can accrue in the City as a whole, but it does not currently limit the pace of development. On Page 20, there's a chart that says growth between 2001 and 2015, is 1 million square feet of non-residential. Look carefully where that number comes from. The 1 million is measured, but it does not include the entitlements that took place between 1998, 1999, 2000, 2001 and 2002. That added 1 million square feet that are not included because the entitlements came before the period started. It also does not include the Stanford Medical Center, 1.3 million square feet. It does not include the 800,000 square feet in the Stanford Research Park, that they tell us each year are vested by right. Add those numbers up; they come to 4.1 of either entitlements or actual building in town. They led one of the Commissioners, Downing, at the end to finally say, "It's not the technical numbers that are important. We should be concerned with the impact of growth, concerned with parking, concerned with traffic, concerned about the use of resources, concerned about the quality of life." It's not a technical number where we've given exemptions to 2.3 million square feet, but it's the impact on the City, and that's what we should be looking at. That's why five of the six members said this interim Ordinance is not going to solve any of the problems that the

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people are expressing, 4 million or so square feet that have been built. I look forward to the discussion on October 5th where instead of looking at an interim growth Ordinance with boundaries, exceptions and so on, we'll be looking at the overall growth rate of the City where we want to maintain the quality of life of people. I would be opposed to any Motion that looks for exemptions.

Mayor Holman: Council Member Wolbach.

Council Member Wolbach: First I have a question for Staff regarding coordinated area plans. 901 High Street was identified in the Staff Report as being excluded if we exclude coordinated area plans. Can you—I don't know if Staff has had a chance to look into that more. I sent an email earlier today. I'm sorry I didn't send it earlier. Can you tell me more about why that would be excluded, under what coordinated area plan that project is covered?

Ms. Gitelman: Thank you, Council Member Wolbach. That project is within SOFA II. It's one of the RT zoned parcels that permits office development. I think those Council Members and Commissioners who have talked about exempting coordinated area plans, have pointed out that it takes a lot of time and a lot of community input to establish a coordinated area plan. A lot of not parcel specific but very specific district-level planning is accomplished. The thought of those who support this exemption is that because of all that work, these should potentially be exempted from the annual limit. I should have said at the outset that when the Council considered this previously, there were eight voting members and the Council split 4-4. This evening, we're really wondering what that ninth person is going to do about this particular issue that I know other Council Members have strong opinions on.

Council Member Wolbach: Thank you for explaining that. (inaudible) just mention a couple of things. One, coordinated area plans can be—again, I often point to the example of our neighbor to the southeast, Mountain View. Coordinated area plans can apply to a large area; they can apply to a very small and very specific area. As I've stated previously and I'll say it again, especially since Council Member DuBois is able to join us, the reason I've advocated for exempting coordinated area plans is not because I think that we're going to get a lot of them in the next couple of years. I think it's extremely unlikely that we'll do any coordinated area plans in the span of this Ordinance. It's somewhat symbolic that the method of the future for adding anything—I think for a lot of developments but especially if you want to add some office space to Palo Alto, I actually think the first choice should be a coordinated area plan. I think it's the anti-PC. PCs are a developer-led process. Coordinated area plans are a community-led process. If the

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community is supportive of a project, the community tells us, "We like this project even though it has office." I'm willing to listen to the community. Again, it's the anti-PC. It leads to—there are a lot of benefits to them; we don't have to go into all of them. The fact that the community already said—there's this one project in SOFA where we've already approved it. We already went through that coordinated area plan. I guess I'd be okay with preserving that one. I didn't realize when I'd previously supported these that any coordinated area plans still had office space left to develop. I think it still holds. There was a lot of time, a lot of community input that went into that plan. As far as I see it, if you're not able to get the community buy-in on a specific project, then that's what the cap is about. For me, the cap is backup. The cap is about the quantity. Ideally we'd want developers to say, "We're not going to start with our vision. We want to hear what the community has to say." The City should be leading that. The community should be leading that. That to me is an ideal planning process. Absent that, absent strong community involvement, and absent strong community support, that's where I support the cap. That's why I support it. That's mostly for Tom since he wasn't able to participate in the previous discussion, er, Council Member DuBois.

Mayor Holman: Council Member Filseth.

Council Member Filseth: I thought the 901 High Street case was actually kind of instructive. The 901 High Street is inside the SOFA II area, I think. Is that right? Since the SOFA II area plan has been around a while, I assume that it has no particular guidance or limits on how fast office space can grow inside that area. Right? Or even the total limit.

Ms. Gitelman: It doesn't have a pacing mechanism. The parcels are allowed a very small amount of office. That 5,000 square feet is a limit in this R(2) zone within SOFA II. They're pretty small projects.

Council Member Filseth: It's not the case that just because I can find some space inside a coordinated area plan, then I can put up a 100,000-square-foot office building?

Ms. Gitelman: I can't speak to all coordinated area plans. I'm not even an expert on this one. Thank you.

Council Member Filseth: I guess it depends on what parcels are available in SOFA II. The coordinated area plan seems like a pretty big exception to me. Can I make a Motion? Move to not exempt coordinated area plans from the office cap. It's only a two-year thing anyway.

Council Member Burt: Second.

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Vice Mayor Schmid: Second.

MOTION: Council Member Filseth moved, seconded by Council Member Burt to not exempt Coordinated Area Plans from the Office/R&D Development Annual Limit.

Mayor Holman: Council Member Filseth, do you care to speak to your Motion, which is seconded by Council Member Burt?

Council Member Filseth: It's a two-year plan. We'll have a chance to revisit it. I concur with the Vice Mayor a couple of minutes ago. I think it's too soon to be putting lots of exemptions in this.

Mayor Holman: Council Member Burt, care to speak to your second?

Council Member Burt: Yeah. I had to reflect on the coordinated area plans not only in the abstract, but the two that are most relevant. We have the existing SOFA plan and we have a prospective Cal. Ave. plan. The SOFA plan created entitlements and put boundaries on the entitlements just like general zoning does, but it does it in a more specific way. It doesn't mean that that amount of office has any less impact than anywhere else. That plan was completed about 15 years ago, and it still has quite a bit of entitlement that could be built there. The Cal. Ave. would likely have a lot more just by the direction it was going. I think these shouldn't—I don't see what's inherently different other than it's a more deliberate zoning, but it doesn't in any way address any pacing that is the intention of the cap. It doesn't go as far as I hope we're going to go in terms of setting the competitive standards for the development; although, it has some aspects of that, but nowhere near what we might be adopting here on that. The more I thought about it, I can't come up with the reasons why they should be exempt.

Ms. Gitelman: Mayor Holman, if I can just interject one clarification. The Cal. Ave. concept plan that's being considered as part of the Comp Plan is not a coordinated area plan. It's not going to have the kind of specific zoning that we have in SOFA II. It's really going to be just a policy document like a comp plan section.

Council Member Burt: You're saying it would not even apply in this Motion either way?

Ms. Gitelman: That's correct.

Council Member Burt: Then the only one we're really talking about is SOFA?

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Ms. Gitelman: That's correct.

Council Member Burt: Thanks.

Mayor Holman: Council Member Scharff.

Council Member Scharff: Thank you. When we first started this conversation, when Council Member DuBois was out of the office. Out of the office, out of the room. Council Member Burt, actually I thought you were fairly eloquent on this issue. What I heard you say was that at the end of doing a new coordinated area plan, it should come to Council and there should be some flexibility about whether or not certain aspects or certain projects or whatever should be exempt, and that Council should be able to look at that as part of the coordinated area plan. I would like to see that flexibility in this Motion. I'd ask you if you'd accept something that does that. I think you could say something like "to not exempt coordinated area plans from the office/R&D annual limit, but at the end of the coordinated area planning process, it would come to Council for a decision if there should be any." I'm actually looking if you have any thoughts on that. I would probably say "at the of the coordinated area planning process, it would come to Council for a decision as to how the cap would apply." I was wondering if you'd accept that.

Mayor Holman: If I might interject here. The coordinated area plan for SOFA is done.

Council Member Scharff: It wouldn't apply to SOFA.

Council Member Burt: If I might add. Really we're discussing a hypothetical and framing how we might have this addressed post-Comp Plan. It's a policy discussion without a practical impact at this point in time.

Council Member Scharff: That's correct.

Mayor Holman: Is anyone else confused as to what this means? Council Member Scharff ...

Council Member Scharff: No, I'm not confused at all.

Mayor Holman: The original was Council Member Filseth moved by Council Member Burt to not exempt coordinated area plans from the office/R&D development annual limit. At the end of the coordinated area planning process, it would come to Council for a determination of how the office/R&D development. It needs clarification. I do not know what this means.

Council Member Burt: Can I offer ...

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Council Member Scharff: Sure.

Council Member Burt: I think we're in this case referring to at the end of completion of a new coordinated area plan.

Council Member Scharff: Correct.

Council Member Burt: That's what's being referred to. That's what he described.

Council Member Filseth: It's more specific than how the limit would apply. The real issue is if we say this coordinated area plan has 30,000 square feet of office space in it this year, do we want to raise the cap for the rest of the City which is a little more specific than some sort of (crosstalk).

Mayor Holman: The question here is, Council Member Filseth, do you accept what Council Member Scharff has suggested?

Council Member Filseth: I'm thinking about whether the words are right for what I think we're talking about. It would still be subject to the cap, but the question is do you raise the limit on other parts of the City. Is that right or is it the same thing?

Mayor Holman: Let's look at ...

Council Member Filseth: What do you think, Pat?

Mayor Holman: I think Hillary has ...

Council Member Burt: If I might clarify. It's about determining how it would apply. I think that describes the intent versus whether it would apply. That's more open-ended. The Council can decide it has to be fully under the cap, it could be partly, it could be exempt (crosstalk).

Council Member Filseth: I can see that. I'm okay with it.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add at the end of the Motion, "but at the end the completion of a Coordinated Area Plan process it would come to Council for a determination on how the Office/R&D Development Annual Limit would apply."

Ms. Gitelman: Mayor Holman, if I can interject?

Mayor Holman: Yes, Hillary.

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Ms. Gitelman: I think I can guarantee you that in the life of this Ordinance, we will not have a new coordinated area plan. We haven't identified ...

Council Member Filseth: Agreed.

Ms. Gitelman: ... one that we're going to work on or started on it. It is a time consuming, community-based planning effort. I just think that we're heading off in a hypothetical direction that we perhaps don't need to do this evening.

Council Member Scharff: I disagree. I think this is a good way to start thinking about policy decisions if this issue comes back to us at the end of two years. Or somebody might start a plan. They might start a plan.

Ms. Gitelman: Just so the Council's aware though. The Ordinance is currently drafted to expire in two years or when the Comp Plan is completed, whichever comes first.

Mayor Holman: Right. Council Member Kniss.

Council Member Kniss: I have to think we're in search of a problem or an answer to a problem that doesn't exist. I heard what Hillary just said. The coordinated area plans, the SOFA itself—I don't remember, I wasn't here then, how long it took. I'm going to guess, looking at Pat and Karen, a couple of years, three years. Probably four?

Mayor Holman: (inaudible)

Council Member Kniss: More. As Hillary has just defined, there isn't anything out there right now. It doesn't exist. That would mean that we're making some decisions about what some Council might do in the future. I'm not seeing this as something that needs to be part of the Ordinance as we're putting it forth tonight. Frankly, it's pretty convoluted and complicated. I don't see it as something—it's not terrible, but I don't see it as something that is necessary to support or will make a difference in the end.

Mayor Holman: Council Member Wolbach. Y'all, we're really beating a dog here.

Council Member Wolbach: Again, this is largely symbolic. This is about—anyway, speaking to the Motion as it currently is. This would as written, it would not apply to SOFA. Again, when I was promoting these before, I didn't realize that we still had entitlements and office allowances within SOFA. This would exclude it, which is fine. I'll support this Motion, even

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thought this is largely symbolic. It is, as Council Member Scharff said, this is about getting people thinking about a better planning process for the future.

Mayor Holman: Council Member Berman.

Council Member Berman: I'm all good.

Mayor Holman: Vice Mayor Schmid.

Vice Mayor Schmid: The goal of the interim agreement is to establish policies that might be helpful for our Comp Plan. What we're doing as this thinking process gets put in the Comp Plan, all of a sudden you have to think of other areas where precise plans might come in. Frye's is certainly one. El Camino and various portions of it might come. Of course, outside the boundaries there's all kinds of things. Eastmeadow Circle. If the implication here is that each time you do one of these in our new Comp Plan you have the ability to redetermine the limits, you're basically undermining the notion of limits.

Mayor Holman: Vote on the board please on the Motion to not exempt coordinated area plans from the office/R&D development annual limit but at the end of the completion of a coordinated area planning process, it would come to Council for a determination of how the office/R&D annual limit would apply. That Motion passes on a 5-3 with Vice Mayor Schmid, Mayor Holman and Council Member Kniss voting no.

Male: It's a 6-3.

Mayor Holman: I'm sorry, 6-3. Apologize.

MOTION AS AMENDED PASSED: 6-3 Holman, Kniss, Schmid no

Mayor Holman: We now go to the next question.

Ms. Gitelman: Mayor Holman, I think the next two questions really can be combined. They're about the process and criteria. Just confirming whether the Council would like to stick with the competition process as shown in the Ordinance and unweighted criteria; or whether you'd like to shift to another kind of process and/or adding weighting to the criteria.

Mayor Holman: It might be helpful to help keep us focused if Clerk could put the two questions up on the screen. That might be helpful. Council Member DuBois.

Council Member DuBois: I was actually expecting to see a quantitative scoring process in here. I thought we'd asked the PTC to do that. Maybe I

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got that wrong. I definitely think we should have some kind of quantitative scoring process and not just first-come-first-serve. Looking through the Ordinance, the way I read this self-mitigating project exemption is if it improves the 3.04 job ratio. If a new building only had a 3.0 job ratio, that would improve 3.04. I personally don't think that should be an exemption. I'd rather see that as part of the selection criteria. If there was some quantitative process, the degree that a project improved the jobs/housing ratio would give it points in the process. Actually, when you look at the selection criteria, I think it's already there. It's called out in terms of housing and retail. In the selection criteria, I'd like to see something more quantitative. I think actually we should delete—let me pull up the Ordinance here—Criteria E and F on packet Page 132 which is monetary public benefits. Actually just "E," I guess, the way it is in here. To me, it's just sounding like a mini PC. I guess what I'd like to see is quantitative scoring criteria you could apply to a project without public benefits, so all these other things that are in here. I'm curious what my colleagues will think about that one. I did have a question about what it means to be deemed complete. I know we've talked about this multiple times since February, I think was the first time. If a project is appealed, is it still considered complete?

Ms. Gitelman: Thank you for the opportunity to clarify. Completeness is something that happens while an application is in our shop for Staff review. An application will come in; within 30 days we have to identify any missing pieces or clarifications, additional information that's required to process the application. When we receive the requested materials, the application is deemed complete. At that point, it's ready for CEQA review, the analysis of Code compliance and other Staff work that precedes bringing an application forward for a decision.

Council Member DuBois: It's complete, but not approved.

Ms. Gitelman: That's correct.

Council Member DuBois: I would actually attempt to make a Motion that would incorporate, I think, both the pipeline and the scoring mechanism. I'd move the interim Ordinance with the deletion of the self-mitigating buildings as an exemption, and ask Staff to return with an administrative scoring procedure to Council to be used to rank projects and to give projects in the pipeline after March 31st but deemed completed as of June 15th more weight in the process. I had a third thing which was for the program to return to Council in two years before it ceases to be in effect, to be either affirmatively continued or modified/replaced.

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Mayor Holman: Council Member DuBois, would you repeat that please or have you provided it already to City Clerk?

Council Member Kniss: Is that the whole thing?

Council Member DuBois: That's the whole thing. I did send it to Clerk.

Mayor Holman: Let's give David just a moment to get it up on the screen please.

Council Member DuBois: David, I did email it to you. I don't know if you have it. No. I emailed it to you.

Mayor Holman: That's what he's typing from. He has to retype it at this point in time still.

Council Member DuBois: He skipped the first part though. The very first sentence was adopt the Ordinance with the deletion. Yeah, make a new "A." Just delete 18.85.203(c).

Mayor Holman: Delete which one? I'm sorry.

Council Member DuBois: 18.85.203(c) self mitigating buildings as an exemption. I think they should be part of the scoring.

Mayor Holman: For selection criteria, you were putting that off.

Council Member DuBois: Yeah. I think we should delete "E," monetary value of public benefits. I guess I'll include it.

Mayor Holman: Now seeing the Motion essentially on the screen ...

Council Member DuBois: It's 18.85.207(e).

Mayor Holman: Now seeing this on the screen, Council Member DuBois is looking for a second.

Council Member Burt: Second.

Mayor Holman: Council Member Burt.

MOTION: Council Member Dubois moved, seconded by Council Member Burt to adopt the Office/R&D Annual Limit Ordinance with the following changes:

- A. Delete Municipal Code Section 18.85.203(c) – Self Mitigating Buildings; and

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- B. Delete Municipal Code Section 18.85.207(e) – The monetary and/or non-monetary value of public benefits offered; and
- C. Direct Staff to return with administrative scoring procedure to Council to be used to rank projects. Give projects in the pipeline after March 31, 2015 but deemed completed as of June 15, 2015 more weight in the process; and
- D. Program to return Council in two years, before it would cease to be in effect, to be either affirmatively continued or modified/replaced.

Mayor Holman: Council Member DuBois, do you care to speak to your Motion?

Council Member DuBois: I think I explained "A" a couple of times. "B," again I think this whole process needs to not look like a mini PC. Again, part of this was to make it have hopefully more clarity and consistency for developers. I think trying to get to a more quantitative scoring mechanism would help. In "C," I guess what I'm expecting is for Staff to come back with something that says there's so many points per project and this is how you earn points. Hopefully that's a process that can be applied pretty efficiently and will be understood by Staff and developers. The last point, it wasn't clear to me what happened in two years, so I just wanted to have it come back to Council while it was still in effect so we can decide.

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

Council Member Burt: Yes. I'm going to offer a couple of amendments. One is under the selection criteria in the Ordinance, we have "A" through "I." What I see there is actually a series of groupings. I see "A" and "B" as impacts and "C" as related to design, "D" as environmental quality "E" as benefits, "F" "G" and "H" as uses, and then "I" as the pipeline. The pipeline's been dealt with separately. It's become part of the weighting. I would recommend that we ask Staff to group the weightings in those six categories.

Council Member DuBois: I deleted one of those categories.

Council Member Burt: Sorry. I wanted to come back to that. Let me speak to that one, which is "E." I don't like the way "E" was worded, monetary and nonmonetary. It kind of goes back into what did it cost the developer as opposed to what benefit did the community receive. I actually do think we could see creative benefits to the community from projects as one of the selection criteria. I think it would be different from a PC, because for the most part the PCs are judged by just those benefits. We have all of these;

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they'd be one of the weighted criteria. I think benefits may be intrinsic to the project or adjacent to it. I do agree that we have to be cautious that we don't slip down a PC path, but I don't think a project that comes forward and says, "We have this benefit to the community," that that isn't something I'd want to weight. I don't want to put it as preeminent. I'd want to put it in the context of these other weightings. I think it has value, but I don't like this monetary and nonmonetary value of the public benefits. It's not quite clear to me what that means. I think it's more important to shift it to what's the benefit to the community. I would offer to return "E" under the wording "the value to the community of public benefits offered."

Mayor Holman: Council Member DuBois, would you be okay with that amendment?

Council Member DuBois: You don't have anything else on your wording—sorry. There's nothing else here for wording for your grouping, do you want to ..

Council Member Burt: Yeah. I wanted to talk to that one first. I can say if that's included then the other thing would be too ..

Council Member DuBois: I'll accept that. David, you should replace that in "B."

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to replace in the Motion Part B, "Delete Municipal Code Section 18.85.207(e) – The monetary and/or non-monetary value of public benefits offered" with "Change Municipal Code Section 18.85.207(e) – The value to the community of public benefits offered."

Council Member Burt: In "B," it would become the value to the community of public benefits offered. Then I offered the six groupings to be weighted. These are all referring to 18.85.207, selection criteria. "A" and "B" would be called impacts. "C" would be design. "D" would be environmental quality. "E" would be public benefits. "F" "G" and "H" would be uses. "I" would be pipeline.

Council Member DuBois: Is that it?

Council Member Burt: The other one you may or may not accept. It goes to the self-mitigating projects.

Council Member DuBois: I'll accept this one.

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INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion, "Municipal Code Section 18.85.207 – Selection Criteria to be weighted as Sections a-b (Impacts), Section c (Design), Section d (Environmental Quality), Section e (Public Benefits), Sections f-h (Uses), and Section i (Pipeline)."

Council Member Burt: On the self-mitigating projects, I didn't really like the wording in Section 1. What I thought might be more appropriate would be language to the effect of "would provide rental housing for more workers than would be employed within the project." There would also be a "2," the transportation as well.

Council Member DuBois: Again, it just seemed overly complicated and a pretty big exemption to a two-year annual cap or annual development limit. I don't know why you want to prescribe rental necessarily. What if it wasn't rental? Again, if we're giving points for use which includes substantial housing, I think we're capturing it under the scoring.

Council Member Burt: It was one of the ...

Mayor Holman: Are you not accepting that amendment then, Council Member DuBois?

Council Member DuBois: Yeah, I guess I would have that be a separate amendment. I would not accept it.

Council Member Kniss: (inaudible)

Mayor Holman: Council Member Burt, do you want to offer it as a separate amendment then?

Council Member Burt: Yeah, I will.

Council Member Berman: I'll second it.

AMENDMENT: Council Member Burt moved, seconded by Council Member Berman to replace in the Motion Part A with, "(1) would provide rental housing for more workers than would be employed in the project; and (2) provide substantial transportation demand management strategies (individually or in cooperation with other projects or programs) to improve the current parking and traffic conditions."

Council Member Burt: I'll just briefly say that I think this captures a little more clearly what we actually voted on, I believe, in the original Motion and supported. It's not a departure from Council direction. It's consistent with the Council direction. Please correct me if that's wrong.

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Council Member Wolbach: Do you want to (inaudible).

Council Member Burt: David, it would include that whole Number 2 under the current self-mitigating projects language. Do you need me to read it? Got it? You found it? Thanks.

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

Council Member Berman: I'm sorry. I just missed that last bit. That's not reflected yet on the ...

Council Member Burt: He's going to add the transportation language that's already in Section C. There are two parts to "C" as it's written.

Council Member Berman: Are you adding it as selection criteria or ...

Council Member Burt: I changed "1," didn't change Number 2. It was just getting Number 2 in the Motion. (crosstalk)

Council Member Berman: (crosstalk) it back as a self-mitigating project?

Council Member Burt: Yeah, yeah.

Council Member Berman: I mean as an exemption.

Council Member Burt: Yeah. It should be—let's see. And 2, provide substantial transportation yada, yada, yada.

Council Member Berman: Sorry. Back under 18.85.203. I think that's spot on. Given the late time of night, I won't elaborate too much. I think that's exactly right. I think we want to incentivize these types of projects. I think this does that. It really encourages developers to create projects that we want to see in Palo Alto, that we think will really make our community better and hopefully properly incentivizes them to do that.

Mayor Holman: I'm going to clear the lights so people can speak to this amendment. I do have a question for the maker of the Motion. Isn't some of this redundant to 18.85.207(b), for instance? I guess I'm not quite clear on what's trying to be accomplished.

Council Member DuBois: The maker of the amendment? This is an exemption. It's not under the cap at all.

Council Member Burt: Are you asking me what's (crosstalk)?

Mayor Holman: Yeah, yeah.

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Council Member Burt: It's retaining what was in the proposed Motion but clarifying the wording of this under 18.85.203(c). Section 1 has had the language rewritten as here. Then it still includes Section 2 of that. It's basically bringing it back in with language that I think is more simple and clear.

Mayor Holman: Council Member Berman has spoken to the ...

Council Member Burt: Speaks to the intent.

Mayor Holman: ... has spoken to his second. I see no other lights from Council Members. Could that possibly be? Council Member Kniss.

Council Member Kniss: I did have it on. It probably flipped off. My big question here—can you pull it down a little bit, either David or Beth, so we see it at the top? What this says is—as I'm reading it—Council Member DuBois.

Council Member Berman: (inaudible)

Council Member Kniss: Right. The amendment has a lot to do with the rest of it. I need to ask is this going to come directly to Council. Do you see this going through ARB and HRB? All the criteria that we have here plus an amendment we just added.

Council Member DuBois: No. Staff is going to propose a process. That process would come to us. Once the process is in place, it'll be whatever they propose.

Council Member Kniss: You would see it going through ARB and HRB? That's important to me before I vote on any of it.

Council Member DuBois: I guess it depends—I mean, again, part of the idea of this would be some kind of quantitative scoring mechanism. Maybe they're ranked.

Council Member Berman: (inaudible)

Council Member DuBois: Again, I'm asking Staff to come back with that process.

Mayor Holman: I think Hillary would like to speak.

Ms. Gitelman: Two clarifications. The amendment is referring to the section of the Ordinance with exemptions. It's not referring to the criteria. The Motion, as I understand it, directs us to return with an administrative

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process for weighting the criteria. The Ordinance provides that the Planning Director will make a recommendation directly to the City Council on the projects that are competing in a given year, applying the criteria and ultimately it's the Council's decision.

Council Member Burt: May I clarify something for Council Member Kniss? The amendment is the only thing that the process does not apply to. It doesn't need to come back to anybody.

Council Member Kniss: That I can see. I actually support that, but I needed to know ...

Council Member Burt: That's all that's before us right now, though. We're not ...

Council Member Kniss: Yes, but I needed to know what it referenced way back.

Council Member Burt: It's not. It's not part of the rest.

Council Member Kniss: Thank you. Thank you for that and let's vote, unless somebody else needs to speak.

Mayor Holman: I still have a clarification. Seeing no other lights, I still have a clarification. The amendment clearly says Council Member Burt moved, seconded by Council Member Berman, to replace Part A in the Motion.

Council Member DuBois: Deleting the exemption.

Mayor Holman: Okay, now it makes sense. I see no other lights, so we will vote on the board. That passes on a 7-2 vote with Council Members Filseth and DuBois voting no. That's the amendment of course we're voting on. That is incorporated into the Motion.

AMENDMENT PASSED: 7-2 DuBois, Filseth no

Mayor Holman: We return now to the main Motion. Council Member Wolbach, then Council Member Scharff.

Council Member Wolbach: If we decide to go the route of having a scoring criteria, I think this is going in a better direction. My preference is actually that we don't use a scoring criteria. My preference is that we actually—for this interim Ordinance which is about getting a handle on the pace and rate of development, this is really about quantity for the next two years, to buy us time to focus on the Comp Plan and maybe setting up a process for coordinated area plans and things like that. I'm actually going to make a

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substitute Motion. I don't think it's worth amending at this point; I think it's just a straight substitute Motion. We direct Staff to adopt a first-come-first-serve process for selecting projects. I would also add that—I can speak to it in a minute.

Mayor Holman: You'd need a second. Seeing none, the Motion ...

Council Member Kniss: I'll second it. That was the end of it?

Council Member Wolbach: That's it.

Mayor Holman: Seconded by Council Member Kniss.

SUBSTITUTE MOTION: Council Member Wolbach moved, seconded by Council Member Kniss to direct Staff to adopt a first come, first serve process for selecting projects.

Council Member Wolbach: To speak to it, this actually kills a couple of birds with one stone. This helps us deal with the pipeline projects. If you add up—I want to check whether the correction we heard from Mr. Paul was accurate, that the net new square footage for 3045 Park Boulevard was only 11,000. If you add up those four projects, I think that, unless my calculation is wrong, that's about 48,733 square feet. That would actually be our first year. That would be this year or the coming year, whenever we adopt the Ordinance. We'd have another year of the Ordinance. We'd have up to 50,000 square feet in the following year. After that, we could figure out if we want to do something more complex and start dealing with the complexities of figuring out a scoring criteria. I think that this significantly reduces the Staff time in putting this together. I think it makes it simpler for everybody involved. I think it makes it simpler for the community to see how we're going to be making decisions. It avoids any chance of favoritism on the part of Council Members or the Council as a whole. I think it makes it simple, clean, straightforward for a short two-year Ordinance, so we can get a handle on pace of change and focus on, through this Ordinance, the quantity rather than the quality, and focus on the Comp Plan and other processes and to focus on improving our quality which I agree is important. Especially since we are thinking of this Ordinance as an experiment, it's important when you're crafting an experiment to not have too many variables. Otherwise, you don't know which ones are working. I think this would be an improvement.

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

Council Member Kniss: I would agree with much of what's just been said. To go backwards with this, our original plan with this was should we limit

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ourselves to 50,000 square feet a year. That was where it all began. Then we said there should be some boundaries that go along with this 50,000 square feet a year. That took at least two meetings in the spring, as I recall, if not more. It's taken a great deal of time by Planning and Transportation as well. At this point, I think this is the kind of criteria that should be folded into what the Comp Plan looks at and what they come up with. I'm also really concerned about does this go to Council on a regular basis. Does every building come before Council for all these criteria to be assigned to it or do we get this in some sort of easier information that can be vetted by the Comp Plan Committee so that we know whether or not this really has some relevance? This is complex. I think for us to be doing this now, while Staff is working on the Comp Plan, really is muddying the waters of this. My plan tonight was to do several things. We have become more and more complex in where we're going with it. I would, for sure, support that first-come-first-serve and make it as simple as we possibly can to move forward. We're already almost in October. I'm not sure whether this started at the end of June of last year or June of this year or when it's really going to start. I think that would be a critical question.

Mayor Holman: Council Member Burt.

Council Member Burt: In one sense I do agree it would kill two birds with one stone, but I think one would be a golden eagle. I think that this is the most valuable part of this process actually. The race toward quality is perhaps more important than the control on quantity. It's, I think, vital for us to have this experience to inform the Comp Plan, so that we can figure out whether we're going to be able to have a future framework for the duration of the Comp Plan that will frame the quality of projects that are built. When we look at these criteria, these are the things that the community has for the most part had greatest concern about or things that conversely present the greatest opportunity for actually valuable projects that would do good, that would be architecturally fitting in with surroundings, that would enhance streetscape, that would go from having architectural quality that is acceptable to something that we might view as excellent, to have the lowest impacts on traffic and parking, the highest environmental quality. These would be the things that developers would compete in. We talk about what are the best merits of the private sector. Letting developers really compete on projects that would bring quality to our community, I just really want to see what would come about as a result of that. Finally, I think the process that was proposed is that the Director of Planning would be driving that weighting. Is that correct? That was the proposal. It wouldn't be coming to the Council on each one. I actually think this is the backbone of this whole thing and the thing where the most good could be done.

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Mayor Holman: Council Member Scharff.

Council Member Scharff: A couple of things. Can we have the—never mind. A couple of things. I was struck when Ray Paul got up here and said that he spent half a million dollars on his projects. What struck me about it is that anybody who wants to go through our process, if we don't have a first-come-first-serve basis, is going to have to spend—I guess it's \$250,000 per project roughly. I don't know how that breaks down. That seems like an awful large investment to not know if you're going to get your cap. I guess what I'd like to know is are there ways we can lower the costs so you can get that decision on Council before you have to spend such vast sums of money. That's really my question. I mean, if people could submit something and it cost them—I don't know—50,000 or less, say. I'm thinking we're requiring people to do full EIRs and be complete before we make this decision on whether they're chosen. Is that correct?

Ms. Gitelman: That's right. We've crafted an Ordinance which requires that applicants get all the way through their regular process up to the point of just before an approval can be made.

Council Member Scharff: I'm thinking about this. This is two years from when? June 15th, roughly? These run on fiscal years, right. We're starting this Ordinance what? July 1st, 2015? If you're not on this pipeline sheet right now, you're probably going to have a project that comes before us under the cap, because you'd have to do an EIR if it's of any significant size, and you'd have to get it completed. How long has it taken—I'm just curious. How long does it take to do it, an EIR? Roughly a year is what I'm thinking in my mind.

Ms. Gitelman: I think there are only a few projects on this list that are subject to an EIR. Many of the projects we see qualify for an initial study negative declaration which could just take a few months or an exemption which is faster. It really depends on the complexity of the project, the size of the project, what it's replacing and the level of environmental review required.

Council Member Scharff: It's the small projects that—could it be a large project? Do we see 20,000-square-foot projects come through or 10,000-square-foot projects that don't require EIRs?

Ms. Gitelman: That's correct.

Council Member Scharff: We do. You could have another 10,000 or 20,000-square-foot projects coming through here. We could do this quicker, then you could have a bunch of other projects that come through this. That's

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interesting. What drove the EIR on the Jay Paul projects? Are there two EIRs or just one?

Ms. Gitelman: I think there's just—I'm sorry. I don't recall offhand. I think we're doing one EIR on the two projects. What drove it was this concern about cumulative impacts in that vicinity. It's right on the Park Boulevard corridor where we've seen a lot of development. It seemed a better course of action to do an EIR than not.

Council Member Scharff: When we look at this in March, the way this is going to work—is Staff going to come back with a different process? I was unclear. Under your understanding of the alternative Motion, not this, in March, somewhere I read, we're going to take all the projects in March 2016 and then you're going to basically—Council's going to—you're going to choose or Council's going to choose on the weighting. You're going to come up with a process, but it's in March, of how we get to which projects. Right now, you have more than 50,000 square feet in the pipeline.

Ms. Gitelman: Under the substitute Motion, we would come back to Council with a revised Ordinance. This really changes what we (crosstalk) here.

Council Member Scharff: No, I realize that. I'm trying to figure out ...

Ms. Gitelman: Under the original Motion ...

Council Member Scharff: Under the original Motion, in March, right?

Ms. Gitelman: At the end of March, March 31st, we would look at how many projects we have that are ready for action. They're ready for a decision. If that number exceeded 50,000 square feet, we would evaluate them and propose to the Council which would be the winners and which would either be denied or have to wait until next year. Then it would be Council's decision whether to accept our recommendation or modify it.

Council Member Scharff: Previous to that, are you coming to Council with a scoring mechanism? Go back to the original Motion, previous to that. Are you coming to Council where we're going to actually vote on a scoring mechanism and all of that?

Ms. Gitelman: That's correct. The Motion is directing us to develop an administrative process and criteria with weighting in those categories that are articulated there, that we would bring back to Council. That would have to happen before the end of March of 2016.

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Council Member Scharff: If this is the alternative, right now we have 28,000 square feet. Ray Paul also mentioned that ...

Male: (inaudible)

Council Member Scharff: Right. Is that 11 or is that 28 or have we not decided as a Staff yet? Mr. Paul made the argument or pointed out that he's got a building on there that's 18,000 square feet, that is zoned R&D, and that he could move in an office/R&D tenant tomorrow.

Ms. Gitelman: If I can—this is actually something that we looked at carefully. I think the answer is really that we're both right. Mr. Paul pointed out that his project is a net increase of only around 40,000 square feet, because there's an existing building on the site. That existing building is not an office use. If you look at the net office increase on the site from the two projects, our Table Number 3 is correct. It's closer to 60,000 square feet of net office.

Council Member Scharff: Is it zoned office at the moment, office/R&D? Could he move in an office/R&D tenant tomorrow? That's what I heard him say. That's what caught my attention.

Ms. Gitelman: Yes.

Council Member Scharff: If he could do that, why—I mean the fact that he didn't put an office use in it, we would interpret that it is—if he can put in a new office/R&D tenant for 60 days on a month-to-month basis, does he then have office use? I mean, it doesn't make sense.

Ms. Gitelman: That is an interesting question. Cara may have to help me on this one. We didn't anticipate that there would be many instances, if any, where someone could just use a use and occupancy permit, no tenant improvements, that would have to go through discretionary review to get in a sizable office tenant. I think it would be unlikely to get a project where someone could take an auto garage and convert it to even Class B office space without any exterior changes that would require discretionary review. That was a calculation we made in drafting this Ordinance. I don't know if you have anything to add.

Council Member Scharff: (inaudible)

Mayor Holman: Let's let City Attorney answer first.

Cara Silver, Senior Assistant City Attorney: We really do have to analyze this project a little bit more. I think what we're referring to is the existing

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auto repair use that's there that's sort of a service type of use. The question is can that then be legally permitted to an office use without ARB review or any discretionary permits. Our sense is that that's not likely, but we'd just have to look at it further.

Mayor Holman: Did you have a question for Mr. Paul?

Council Member Scharff: Yeah. I just wanted to hear what he as to say. He said he wanted to speak.

Mr. Paul: First of all, under any description of the property, it is not an automotive use entirely. The top floor is entirely office, has been office, the last use was office. The bottom floor, there is a rather smallish area that is truly automotive. Part of the automotive use was, in fact, office. It's built out office. If we were to re-tenant it, we'd have to rip out the cubes to make it something else. In addition to that, on the first floor there was Hertz Automotive. The most natural use for that space is to cube it out and to use it as office. Characterizing this as an automotive use along the lines of—I mean what went on there was an auto body repair shop, just doesn't get it right at all. The top floor, first of all, is completely mischaracterized. I would argue that most of the bottom floor is mischaracterized as well.

Mayor Holman: Council Member Scharff, do you have all your questions and comments made?

Council Member Scharff: Yeah, I do.

Mayor Holman: Council Member DuBois.

Council Member DuBois: I went back and looked at all my notes. I think it was February 9th we talked about this the first time and that the (inaudible) is really driving things to office. That's the time we really started to look at beauty contests or some kind of scoring mechanism, so it's not a new idea by any means. We talked about Walnut Creek and San Francisco. Just to remind everybody. Council Member Burt beat me to it, but the whole point in my mind was really to have a process that would lead to quality projects. That was why we were going through this exercise. It wasn't to kind of get the first-thing-in-first-thing-out. We also talked about we have this National Citizens Survey. 40 percent of our residents say we're doing a good job on land use. Again, to me that's a big blinking red light that we need to fix something. I think back then in February PAN wrote us a letter and suggested we should have a moratorium. We've gone kind of through this thing a lot of different ways. I don't want us to forget kind of where we started and why we're here. To me, first-come-first-serve just seems like a race to the bottom. We're not going to get quality out of that process.

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We're going to get quick submissions. We've also heard that in the last 15 years, there's only six times this process would even come into effect. My understanding is we'd have one meeting where we'd have a ranked list of projects. Unless there was something we thought was really wrong with that ranking, I would assume we'd pretty much go with that. I just want to put in a word and say I think this is all about quality and how do we get quality projects.

Mayor Holman: Council Member Filseth.

Council Member Filseth: I like the competition as well. We've talked a lot about this is a two-year Ordinance, and it's a two-year Ordinance. It's going to get succeeded by something. I think the odds are pretty good that whatever comes after this, it's going to build on whatever we've learned from this in the two years that we've had the Ordinance. I like the idea that we should build a process to (inaudible) quality projects. Right now what we do and what every city does is we try to legislate quality projects through sort of big, complicated municipal codes. The folks that do these things, they spend sort of a lot of—they're very creative and they spend a lot of time and effort sort of trying to use that to sort of work within our Code. I like the idea that they use that creativity to compete with each other instead of us on how to build better quality projects. I think it would only apply for a year, because we've got a pipeline that's going to take up the first year. It would still apply for the year, and it would give us a pipe cleaner for a process in the future that we might well benefit from in terms of having a way of working that inherently generates high quality projects. Lord knows, as Council Member DuBois said, there's been enough residential and public concern about some of the quality of projects we're getting. We need to try something different. I thought this was a really clever idea, a really creative idea to leverage some of the creativity out there in the development community to do this kind of stuff. The disposition of the pipeline, obviously we have a pipeline that we have to deal with. Beyond that, I think it makes sense to institute a process like this.

Mayor Holman: Given no more lights, it is time to vote on the substitute Motion which is to direct Staff to adopt a first-come-first-serve process for selecting projects.

Council Member Kniss: (inaudible)

Mayor Holman: We are voting on the substitute Motion to adopt a first-come-first-serve process for selecting projects. That Motion fails on a 7-2 with Council Member Wolbach and Council Member Kniss voting yes.

SUBSTITUTE MOTION FAILED: 2-7 Kniss, Wolbach yes

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Mayor Holman: We return then to the main Motion. If we can get Staff to scroll back up to that please. Council Member Scharff.

Council Member Scharff: I felt wanted on that one. I would say that I think that we already had in there, in this, that there was weight given to the pipeline projects. I really think we should be stronger than that to be fair. I think that if the project was complete as of June 15, 2015, it should go to the head of the line. I would propose that we put that in there.

Council Member Berman: What does that mean exactly?

Council Member Scharff: That that gets approved, those two projects.

Council Member Kniss: Greg, I can't (inaudible).

Mayor Holman: In "C" it says give projects in the pipeline after March 31, 2015 but deemed complete as of June 15, 2015 more weight in the process. Is that what you're ...

Council Member Scharff: That's what I'm referring to. That seems—we already said that.

Mayor Holman: Yes, we did.

Council Member Scharff: I think it should be stronger. I just want to make that particular point stronger and say that those projects go to the head of the line.

Council Member Berman: You mean should be (inaudible).

Council Member Scharff: Should be approved. Should be approved, correct.

Council Member Berman: As part of (inaudible).

Council Member DuBois: But still subject to the cap?

Council Member Scharff: Yes, still subject to the cap. I mean, there's two of them. If it's not—there's four of them. It could take longer. I mean, they may not be the first one to go. I mean, you're not going to get them all in the same year; you're going to get them over a two-year period.

Mayor Holman: Council Member Scharff, would you care to make a clear amendment?

Council Member Scharff: Yes. I would say give the projects in the pipeline after March 31, 2015 but deemed complete as of June 15, 2015, that they

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would be first in line to be chosen under the cap. Chosen might not be the right word.

Mayor Holman: Council Member DuBois, do you care to ...

Council Member DuBois: I'm not sure what this means. There are projects that are complete but not approved and need to go through a process to get approved. You're saying you automatically approve them?

Council Member Scharff: No, no, no.

Mayor Holman: That's what it reads like.

Council Member Scharff: I'm only talking about the cap. Right now, you're saying they get more weight. I'm saying instead of getting more weight, that there's what? Four of them? Under the cap ...

Council Member DuBois: I don't understand what first in line means. They get more weight, but what if they score low on the other aspects? You're saying that doesn't matter.

Council Member Scharff: That's what I'm saying. It doesn't matter. We respect the cap, and you get no more than 50,000. You have 2747 Park Boulevard, 3045 Park Boulevard, the El Camino one, and then you have the Lytton Avenue one. Those ones you would make a decision. We'd score those. The first year, we'd choose up to 50,000 square feet. The second year, we'd finish those out and then you'd score other projects.

Council Member DuBois: So we're first-in-first-out in Year 1 and scoring in Year 2.

Council Member Scharff: Correct. That's correct.

Council Member DuBois: I guess I would say no to that. Let's vote on that one separately, see what people think.

Mayor Holman: If you offer that as a separate amendment ...

Council Member Scharff: I do.

Council Member Kniss: Second.

Mayor Holman: Council Member Kniss seconds.

AMENDMENT: Council Member Scharff moved, seconded by Council Member Kniss to replace in the Motion Part C, "more weight in the process"

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with "they would be first in line to be chosen under the Office/R&D Development Annual Limit."

Mayor Holman: Council Member Scharff, do you have anything more to say to your amendment?

Council Member Scharff: I do. I think that it is unfair to the people prior to June 15th when we talked about this and made that determination to throw them in the mix after they've spent all this money and all of that without any clear sense that they may never be able to build their project. By putting them clearly in a queue, they may not go this year, they may have to go the following year. We get the experience for the scoring. Basically I call it a pilot project, what we're doing now to learn experience. We get that experience the second year. We get part of it the first year in that we're scoring between these projects, so we see how the scoring system works. We can then make changes if necessary for the second year, depending on how we felt about it. As Council Member Filseth said, when it comes back for this Ordinance possibly, we'll have that experience of how we went through this process, but we will have been fair to everyone. We will have treated them the way we would want to be treated, frankly, if we came before Council after spending that kind of money.

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

Council Member Kniss: There's nothing quite as complicated as how we can make it at almost 12:30 at night as well. There are parts of this that I think have great merit. I'm certainly going to be supporting this because I think that this is important. We did have somebody who barely missed the deadline by about three weeks, which was unfortunate. I don't know exactly what happened, and I don't want Hillary to explain it tonight. Why don't we vote on this and then, Mayor Holman, I would like to speak to the Motion that's above that before we actually vote on it.

Mayor Holman: Council Member Filseth. This is to the amendment.

Council Member Filseth: Yeah, this is to the amendment.

Council Member Kniss: You're right. It's not late enough yet.

Council Member Filseth: Commercial real estate is a high risk, high return kind of endeavor. One of the risks is that municipal zoning, there's an exposure to it. That said, I think what Council Member Scharff has proposed is a reasonable accommodation. It gets us what we want. It deals equitably with the people who invested in this process so far. I'll support the amendment.

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Mayor Holman: Council Member Berman.

Council Member Berman: I'm good.

Mayor Holman: Vice Mayor Schmid.

Vice Mayor Schmid: I thought the reason we picked March was because at a meeting in March Council explicitly said we should move toward a cap. The word was clearly identified by that time. Secondly, the wording here, they would be first in line to be chosen, is not clear. They're in line, but it's still a line. You implied that this would be actually chosen. Not chosen, but be selected.

Council Member Scharff: Selected. I'm happy to change the word to selected, if you prefer selected. I don't think it really matters.

Mayor Holman: I think for the sake of clarity, I think you should.

Council Member Scharff: I'm happy to (inaudible) selected (inaudible). I don't think the March 15th date, I don't believe we actually had that discussion. I think we picked it to exclude those projects. I don't believe we actually first talked about the cap on March 15th. In fact, I'm 100 percent sure of that. I think your memory is just not right on that.

Vice Mayor Schmid: I guess that's a good question. Is there someone who can help me on that? The Council did meet on March, did talk about a development cap and made it clear that we were moving in that direction when we asked Staff to come back with information.

Ms. Gitelman: Vice Mayor Schmid, you're correct. We did have a discussion on March 2nd. We had another discussion in June. I think it was at the June meeting that Council directed us to include that March date in the Ordinance.

Vice Mayor Schmid: Yeah, but I guess in the March date it was pretty clear that we had asked you to help us work on a development cap.

Ms. Gitelman: I would have to look back at the Minutes for both meetings. I just recall it was your direction to use the—I think Staff's recommendation at the time had been to use the June 15th date or the effective date of the Ordinance. The Council overruled our recommendation and went with the March date.

Vice Mayor Schmid: My recollection is the intention was when we had requested a development cap was the time to put the March date in there.

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Mayor Holman: For the language to be clear on the intention of what you're proposing here, would the language not be that the projects in Section C would be first in line to be selected under the cap and not subject to the weighted criteria?

Council Member Scharff: That would be correct.

Mayor Holman: That's what I think you're intending, but that's not what this says.

Council Member Scharff: That is what I'm intending. We can add that in. That's fine. I accept that.

Mayor Holman: You have that "and not subject to the weighted criteria." Council Member Kniss, is that what you ...

Ms Gitelman: Wouldn't they be subject to the weighted criteria ...

Council Member Scharff: Your right. It would be ...

Ms. Gitelman: ... after? They were first in line, but they would still have to be weighted because they're more than 50,000 square feet.

Council Member Scharff: They would be weighted, against each other because there's more than 50,000 in the first year. It would be weighted in the first year amongst each other.

Mayor Holman: Amongst each other, okay.

INCORPORATED INTO THE AMENDMENT WITH THE CONSENT OF THE MAKER AND SECONDER to replace in the Amendment, "first in line to be chosen under the Office/R&D Development Annual Limit" with "selected first and weighted amongst each other."

Council Member Scharff: I think Staff has the understanding of the Motion. Am I wrong?

Mayor Holman: Last question here, to make sure that we're understanding this. One of these projects was reduced. It's less than what was on this chart. Is that right?

Council Member Scharff: That's still up in the air.

Mayor Holman: Let's pretend that that's the case. Which project was it that was less square footage than what was indicated, net increase?

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Ms. Gitelman: The project on High Street has been reduced. Mr. Paul has raised some questions about the net square footage we have for his projects; although, I double checked that twice against the applications we have on hand.

Mayor Holman: Both of the Park Boulevard projects are in question, is that what you're saying?

Ms. Gitelman: I believe our numbers are accurate for net increases in office space, but we'll check them again based on Mr. Paul's comments this evening.

Mayor Holman: I've looked up again the address for 3045, I think it is. For 3045 Park Boulevard, I get a photo that comes up of Aiken's Auto Body. I'm not sure how that is not auto repair.

Council Member Scharff: Staff's going to go check on it.

Mayor Holman: We've had an argument that it's, like, we're not replacing auto body, we're replacing office with office. At any rate, the amendment on the floor is that Council Member Scharff moved, seconded by Council Member Kniss, to replace in Motion Part C, which is the main Motion, "more weight in the process," replace that with "the projects would be selected first and weighted amongst each other." I'm sorry, Council Member Burt, your light's on.

Council Member Burt: I'm trying to make sure I even understand the intent here. If the second project is deemed to be a net of 28-plus, will it also the next year be the first in line? Is that what you're saying?

Council Member Scharff: Yes, there are four projects. They total 66.6 thousand square feet. We take them in order.

Council Member Burt: We basically, okay. This whole thing of being able to look at the weighting criteria and have that inform the Comp Plan process is pretty much moot if we do this.

Council Member Scharff: No, because we do it the second year completely.

Council Member Burt: A fraction of the second year's projects would come forward. I think this really undercuts the intention. I agree with Vice Mayor Schmid that the early March meeting was when we had discussion and, I think, gave clear indication that we were going to have such a cap. We finalized it subsequently, but it wasn't like we only discussed this on the final meeting date. We first discussed it in early March.

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Mayor Holman: With that we will vote on the amendment. That amendment passes on a 5-4 vote with Vice Mayor Schmid, Mayor Holman, Council Members Burt and DuBois voting no.

AMENDMENT AS AMENDED PASSED: 5-4 Burt, DuBois, Holman, Schmid no

Mayor Holman: We return now to the main Motion. I don't see lights. I do have one question for Staff. It goes to Council Member Kniss' question earlier. The weighting would be accomplished and determined by the Council alone?

Ms. Gitelman: You would receive a recommendation from the Planning Director and the Council would decide.

Mayor Holman: They wouldn't go through HRB or ARB for recommendation.

Ms. Gitelman: They would have already gone through HRB and ARB if they were subject to those reviews, and you would have a recommendation from those bodies on the individual projects, not on selection between the projects.

Mayor Holman: That's very clarifying. Council Member Kniss, are you good now?

Council Member Kniss: I really appreciate that question, because that's one of the places that I was going with this. I want to make sure that we're actually looking at the very top of the Motion up there. Correct? I'm going to end up voting for this even though I have a very difficult time with "E." There's no way at 12:30 I'm going to pull "E" out for any reason and go through this all again. I think this is adequate. I think it's overkill for the next two years. At the same time, I think it's also important that we stick together on where we're going to go with this. This will go the Comp Plan Committee, and it will be something that I'm sure they will carefully look at and perhaps incorporate into where they're going with it or they may not. In any event, thank you. I'm certainly ready to ...

Mayor Holman: With that, we are ready to vote on the board please.

Ms. Gitelman: Mayor Holman, if I can just say a few words after the vote.

Mayor Holman: That passes on a 9-0 vote.

MOTION AS AMENDED PASSED: 9-0

Mayor Holman: Yes, Hillary.

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Ms. Gitelman: I just wanted to say I know it's been a very complicated Motion and a long discussion, but the net effect was very few changes in wording to the draft Ordinance. There was a lot of direction about other things to do and follow-up, but the Ordinance itself just changed in a few ways. We're going to proceed with the second reading on your agenda as planned. We'll get that to you in mid-October.

Mayor Holman: Thank you very much.

Inter-Governmental Legislative Affairs

None.

Council Member Questions, Comments and Announcements

Mayor Holman: Do we have anything from anyone? Council Member Kniss.

Council Member Kniss: I do have one thing. I will bring a memo forward on this. I was on a plane for six hours today, so I had a lot of time to read the packet. One of the things I thoroughly enjoyed was reading the Minutes from the Planning and Transportation Commission. One of the things that I couldn't read and I was kind of sad about it was any of our Minutes. Our Minutes are simply Vice Mayor Schmid moved, seconded by so-and-so and so on and so forth as to what the Motion was. There is no context, no prose, no anything to it whatsoever. Without tipping our hand, Tom and I will come back with a suggestion that either we go back to sense Minutes or, if you want to ...

Council Member Burt: You just tipped your hand.

Council Member Kniss: On purpose. Or if you want to plow through verbatim Minutes, they are very awkward. I'm sure you read plenty in transportation. There's nothing quite as awkward as reading what you actually said, to be honest. Just to let you know that it has been frustrating to not have the Minutes that we used to have. I'm not going to give the lecture about artificial turf again tonight.

Mayor Holman: I don't see any other lights. Meeting adjourned.

Adjournment: The meeting was adjourned at 12:31 P.M.