Recommendation
Staff recommends that Council direct staff to work with the Historic Resources Board and residents of Professorville to develop: 1) a written process for review of any future proposed demolitions of Contributing Structures in Professorville, including the CEQA process requirements; 2) early review of the design by the Historic Resources Board and the public; and 3) preparation of compatibility criteria for new construction in Professorville.

Executive Summary
In October, 2010, the City Council, following review of the 405 Lincoln Avenue demolition request, directed staff to return to Council with an outline of a process for timely review of proposals regarding demolitions of Contributing Structures in the Professorville National Register Historic District. The focus of the assignment was to ensure that future applicants of proposals in Professorville would have a clear understanding of the City’s requirements, including environmental review as required by the California Environmental Quality Act (CEQA). Staff has reviewed the key issues related to Council’s request, and recommends that any future evaluation of demolition proposals in Professorville include: 1) a revised CEQA review process, including an Initial Study in most cases, and 2) an early review of any proposals by the Historic Resources Board (HRB). Staff also recommends updating the City’s website to reflect this process clearly and working with the HRB and the community to revise the compatibility criteria for Professorville.

Background
On October 25, 2010, the City Council certified the Environmental Impact Report (EIR) for the 405 Lincoln Avenue Single-Family Residential Replacement Project, which analyzed the environmental impacts from the demolition of an existing Contributing Structure in the Professorville National Register Historic District and the compatibility of the proposed
replacement structure with the Historic District. It had taken three years to process the application for 405 Lincoln to allow demolition of the existing structure on the property. Three factors contributed to the elongated timeframe for processing the project: 1) an EIR had been required for the project; 2) there were no established criteria for determining compatibility for a replacement structure with the Historic District or how to address a Contributing Structure in the District; and 3) there was no established process for the Historic Resources Board to evaluate early in the process the proposed design of the replacement structure for consistency with the district. When the City Council reviewed the EIR for the 405 Lincoln project, concern was expressed that the Council and the HRB had limited latitude in modifying the project given the process that had been undertaken. As a result, the Council directed staff to return to Council “with a clear and concise understanding of the CEQA process” for Contributing Structures in Professorville and to define the “rule of operation in the historic district.” Minutes from the October 25, 2010, City Council meeting are included in Attachment A. The City Manager’s report for the item is included as Attachment B.

Discussion
As a result of the Council direction received on October 25, 2010, staff reviewed the process undertaken for the 405 Lincoln project. Staff has focused its review and recommended process changes to three areas involving applications for historic structures in the district since these are areas that the City can control in the process: 1) environmental review; 2) criteria for replacement structures in Professorville; and 3) public review of proposed replacement structures.

Environmental Review
The City required preparation of an EIR for the 405 Lincoln project immediately upon the applicants’ filing of the demolition permit request, since staff assumed that the building itself was an historic resource and/or its removal from the Historic District would significantly impact the integrity of the district. In addition, there was initial public controversy regarding the removal of a Contributing Structure from the District that contributed to staff’s call for an EIR. As a result, the City did not require an Initial Study to be prepared, which is a preferred option under CEQA that could have ruled out the need for preparation of an EIR. The EIR would have been avoided only if the City had criteria to ensure conformity of the replacement structure with the Historic District.

As part of the Initial Study, a historic report would have evaluated the significance of the loss of the individual structure and the impact on the district as a whole from the loss of a Contributing Structure and, in the case of 405 Lincoln, determined that the impact was less than significant. If the City had established criteria for replacement buildings, the Initial Study could have concluded that the project would need to be conditioned to ensure conformity with those criteria. A Mitigated Negative Declaration could then have been issued for the project.

Much of the environmental review complexity was driven by the early trial court decision that the demolition of the Juana Briones House was a “discretionary” action subject to full CEQA review, and direction by the trial court to prepare an Environmental Impact Report (EIR). This
decision resulted in a very conservative approach to 405 Lincoln, with a determination that an EIR was necessary. Staff notes that, since the date of the 405 Lincoln action by Council, the Juana Briones House trial court decision has been overturned and an appeal to the California Supreme Court has been rejected. Currently the state of the law is that issuance of a ministerial permit, like a demolition permit, by itself does not trigger CEQA. So demolition in and of itself may not dictat the need for CEQA review, although if it is coupled with a discretionary action, such as the City’s Individual Review process a two-story replacement structure, CEQA would be triggered.

Staff recommends that for any future proposals for demolition in Professorville involving Contributing Structures, an Initial Study should be prepared to determine the significance of the loss of the proposed structure both individually and on the District. If the building is individually significant or its removal significantly affects the integrity of the district, an EIR will be required; otherwise, the project could qualify for a Mitigated Negative Declaration. For projects involving a building individually listed on the City’s Inventory or eligible for listing on the State or National Register, an EIR will be required so preparation of an Initial Study would not be necessary.

Compatibility Criteria
For the 405 Lincoln project, the historic consultant that prepared the historic evaluation for the existing structure and its significance within the historic district for the EIR also developed a set of draft compatibility criteria based on the Secretary’s Standards for Rehabilitation of Existing Structures. These criteria were used in the EIR to evaluate the compatibility of the proposed replacement structure with the historic district. These draft criteria could be further developed and reviewed by the Historic Resources Board to provide clear direction for both new structures and remodels in the Professorville Historic District.

Any compatibility criteria would require that new development would have to be differentiated from the existing historic structure(s) and not overwhelm or dominate historic structures, consistent with the Secretary’s Standards for Rehabilitation; however, the new development could be varied in style ranging from traditional to modern. Although modern design like that of the replacement house for 405 Lincoln may be considered compatible with historic structures, the criteria could restrict new development to specific styles/types to ensure retention of a more traditional look and feel for Professorville if that is the desire of the community.

Staff recommends that the draft compatibility criteria developed for the 405 Lincoln project provide the framework for developing a set of permanent criteria to be reviewed by the HRB after discussions with the Professorville community.

Public Process
Another issue that was of concern to Council, the HRB and the public was the lack of a public process to solicit input early in the design of the replacement structure. By the time the HRB reviewed the project, the applicant had made numerous costly changes to the design, the draft
EIR was completed evaluating the proposed design, and the EIR identified specific changes to the design in order for the project to be compatible with the Historic District. As a result, the HRB had limited ability to recommend revisions to the design unless the Board recommended that the EIR was inadequate. This also was a constraining and frustrating situation for the Council. Early discussion with the HRB could have avoided this situation; however, currently there is no mandatory procedure that requires early consultation with the board.

Staff recommends that the review process for any proposed demolitions or new construction in Professorville be required to undergo a preliminary HRB review/discussion to identify the general design parameters of the new structure and that the initial design be reviewed by the HRB prior to completion of any environmental review. After completion of the CEQA process, the Board would make its official recommendation on the project. Staff also recommends that the City’s HRB website be updated to include information describing the importance of the Professorville historic district and retention of both Significant Buildings and Contributing Structures in the District, incentives for preservation in the District, and the required process for demolition applications.

Meeting with Professorville Residents
On January 6, 2011, staff met with five residents of Professorville and Councilmember Holman to discuss Professorville and the status of staff’s recommendations to the City Council regarding the review process for any demolition applications of Professorville properties. Staff assured the group that the City recognized the importance of retention of the historic buildings within Professorville and their relationship to the integrity of the historic district. It was recognized by all that although the historic preservation ordinance does not prohibit demolition in the District, the CEQA process currently applied to the district is a disincentive to demolition, particularly for significant buildings or structures whose removal could adversely affect the integrity of the district.

The neighborhood group suggested that additional protections such as prohibiting demolitions of both Significant Buildings and Contributing Structures in Professorville should be incorporated within the Historic Preservation Ordinance. Another suggestion from the group was support for creation of a conservation overlay district for Professorville that would require a similar process for implementation and similar restrictions as that required for the Single Story Overlay process. The group also recommended that the Historic Preservation webpage on the City’s website be updated to identify process requirements for Professorville properties as well as incentives for preservation and that the City undertake a re-evaluation of Contributing Structures within Professorville for individual placement on the City’s Historic Inventory. Staff reminded the group that some of these suggestions exceeded the scope of the direction from Council to staff; however, staff would include a summary of the discussion in this staff report.

Conclusion
Staff recommends that for any future proposals in Professorville the City follow the steps
identified above for CEQA review and that staff require early review of any proposals by the HRB. These changes can be implemented immediately. Staff also recommends updating the City’s website to reflect this process clearly and to underscore the importance of preservation of the Professorville Historic District. This task should be accomplished within three months. Staff work with the HRB and the community to revise the compatibility criteria should be accomplished by the end of the calendar year. For this task, staff will request that limited consultant assistance be provided to ensure any approved criteria is consistent with federal requirements for retention of the National Register District status for Professorville.

**Resource Impact**
In order to fully develop compatibility criteria for new structures in Professorville that would address neighborhood issues as well as ensure compatibility with historic standards, staff recommends that the City Council allocate $15,000 to hire a historic consultant to provide guidance to staff and the HRB in augmenting the draft criteria prepared as part of the 405 Lincoln project. This funding request will be included in the 2011-2012 budget.

**Attachments:**
- Attachment A: October 25, 2010 Council Excerpt Minutes (DOC)
- Attachment B: October 25, 2010 CMR re: 405 Lincoln (PDF)

Prepared By: Julie Caporgno, Chief Planning & Transportation Official

Department Head: Curtis Williams, Director

City Manager Approval: James Keene, City Manager
Public Hearing: Consider Certification of Final EIR for the Proposed 405 Lincoln Avenue Single Family Residential Replacement Project and approval of Demolition Delay and Record of Land Use Action for the Existing Residence at 405 Lincoln Avenue Which is Listed as a Contributing Structure in the Professorville National Register Historic District and a Contributing Resource to the Professorville Historic District on the City’s Historic Inventory.

Director of Planning & Community Environment, Curtis Williams stated the item being discussed was in regards to the proposed Demolition Delay Request and the Final Environmental Impact Report (FEIR) of 405 Lincoln Avenue. He stated the revised Record of Land Use Action (ROLUA) for 405 Lincoln Avenue, Mitigation Monitoring Program answers to the Council questions, and materials relating to the 2000 Historic Preservation Ordinance were distributed to the Council prior to this evening’s meeting. He provided a presentation as outlined in Staff Report CMR 387:10.

David Bower, Historic Resources Board Chair, stated the Historic Resources Board (HRB) focused on whether or not a single building represented part of a historic district. The HRB felt the building was not significant enough to be a Category 1 building. It was significant to the greater Professorville Historic District and for that reason the HRB felt the expansion retention option was the best environmentally sound option. He noted the owners did not find that option to be acceptable. The HRB felt the Environmental Impact Report (EIR) was complete and recommended the Council to pursue the expansion retention option and if there was a replacement building, HRB asked that it come back to the Board since it had not been addressed in the hearings.

City Attorney, Gary Baum stated the project had several legal issues; one was whether the structure was of historical significance and governed by California Environmental Quality Act (CEQA) guidelines. He stated the test was whether the site was associated with events that made significant contributions to the broad patterns of California History and Cultural Heritage, was the building associated with the important lives in our past, did it embody the distinctive characteristics of a time period, region or method of construction or represent the work of an important creative individual or possess high artistic values, or has yielded or may likely to yield important information in prehistory or history. He stated the City’s historical
consultant, the EIR consultant, and Staff concluded the structure on its own was not historically significant. It was a contributing structure and not a Category 1 or 2. Palo Alto Municipal Code 16.49.020c was raised because it stated that every structure within the historical district was significant. The City was required to follow CEQA standards which stated that being within a historic district on its own did not make it a historic structure. The FEIR determined the demolition would not have a significant unavoidable impact upon the district as long as the mitigation measures were included and the primary one was compatible to the districts. The Juana Briones case was triggered and went to a writ trial in Santa Clara County Superior Court and found the City’s Demolition Delay procedure discretionary and required an EIR. The case was on appeal and he did not anticipate the court would change the determination. That was the reason for bringing the item before the Council today. The Demolition Delay did not fit well with CEQA. The City was required to follow CEQA and to analyze the Demolition Delay. There were liability issues for the City depending on how the Council ruled.

Council Member Klein asked if the demolition delay was on an automatic turnaround of 3 to 4 months, would that prevent concerns in the future.

Mr. Baum stated yes.

Council Member Klein asked whether there were structures within Professorville where the HRB would find destruction possible.

Mr. Bower stated yes. The HRB allowed demolition in Professorville on in-fill projects built in the 1950’s and 1960’s that did not contribute to the overall characteristics of the district. He noted a group of individuals and building professionals, of which six owned historic buildings, found the structure to be worth saving. The structure had historic value in terms of who built it, the people who had lived there and the architectural style.

Council Member Klein asked about buildings built prior to 1930.

Mr. Bower stated the answer remained as previously stated although the demolition was dependent upon the soundness of the structure.

Mr. Baum stated making Demolition Delay ministerial or automatic would address part of the question but we still would need to determine what the appropriate change or fix would be to Individual Review (IR) because that could be viewed as discretionary.

Council Member Holman stated Demolition Delay allowed property owners to explore other options besides demolition. She found the environmentally
superior alternative was not explored and not required. She asked if the
owners had explored other options or were encouraged by Staff to retain the
building.

Chief Planning & Transportation Official, Julie Caporgno stated the issue was
addressed during discussions of the property becoming a single-family home
and she noted an EIR was required. A historic oak tree was on the site at the
time which prohibited the expansion. The Applicants were well into the
design of the project when the health of the tree was questioned and for
safety reasons needed to be removed.

Council Member Holman stated according to the CEQA guidelines the project
alternatives had to satisfy the project objectives and asked how specific that
needed to be.

Mr. Baum stated the Applicant provided an outline of the project objectives.
A degree of specificity was needed, it was not considered to be a viable
alternative if a project did not meet the objectives.

Council Member Holman stated she thought to satisfy the project goals were
to “generally accomplish the project goals.” She asked if that was the correct
terminology.

Ms. Caporgno stated that was the proper CEQA language. It was not
necessary to accomplish every project objective but overall the project
objective should be met by the ultimate project.

Mr. Williams stated Staff reviewed both options, the alternatives, and the
letter submitted by the Applicant. There were significant hurdles in the cost
of trying to make the building work in similar size and functionality of the
home. The financial feasibility and realistic nature of the alternatives needed
to be met.

Ms. Caporgno stated the HRB had recommended a basement be added in
order to meet the square footage requirement. The structure needed to be
lifted in order to facilitate a basement although the building configuration
made it difficult.

Council Member Holman stated applying CEQA to a single-family home for
demolition was an interesting facture. The City’s code did not assure a
maximum Floor Area Ratio (FAR). It was necessary to satisfy other criteria
and asked how this was applicable to the project.
Mr. Williams stated the key issue was whether to demolish or not. The City’s code did not prohibit demolitions and it was difficult to say whether there would be a loss in the anticipated square footage.

Council Member Holman asked if the FAR was one the issues driving the inability to expand the existing structure.

Mr. Williams stated the FAR would be met by the proposed home and asked where Council Member Holman’s concern was coming from.

Council Member Holman stated because the environmentally superior alternative was to retain the existing building it did not seem feasible to accomplish the proposed FAR. It meant the proposed FAR was tied to what made the environmentally superior alternative feasible or not.

Mr. Williams stated it was not a case of variance or a situation trying to attain a special approval. The project was in the IR process which could not be used to limit the FAR. He stated the issue of demolition was first and foremost and the feasibility of building another alternative was to not only achieve FAR but also cost and functionality of the home.

Council Member Holman stated the policy implications in Staff Report CMR 387:10 indicated if contributing status automatically determined significance or broader ramifications for the City, all contributing structures in Greenmeadow and Green Gables would be subject to preparation of an EIR. She previously had asked the question and was given a different implication which was, Greenmeadow had a single-story overlay, and the issue that would trigger CEQA in Greenmeadow would be the application for Home Improvement Exception (HIE) in conformance with the Secretary of Interior Standards.

Mr. Williams stated that was true for Greenmeadow because of the overlay but not with Green Gables. He asked Council Member Holman if she was saying there would not be a Demolition Delay. Demolition Delay triggered CEQA for single and two-story homes.

Council Member Holman asked if Greenmeadow had a Demolition Delay.

Ms. Caporgno stated neither Greenmeadows nor Green Gables had a Demolition Delay. She stated if there was a request for demolition of a site, information or design of the replacement structure needed to be provided and would trigger CEQA. Green Gables allowed two-story buildings because it did not have a single-story overlay.
Council Member Holman clarified CEQA would not apply to Greenmeadow because it had a single-story overlay, would not trigger an IR and that the decision made at this evening’s meeting would not affect Greenmeadow.

Ms. Caporgno acknowledged the above statements.

Council Member Scharff asked specifically what Council was being asked for in relation to the revised Record of Land Use Action (ROLUA).

Mr. Baum stated Staff’s recommendation was for Council to approve the ROLUA. The ROLUA should embody all the recommendations listed on the first page of the Staff Report unless something was dropped by accident.

Ms. Caporgno stated Staff’s recommendation was to adopt the ROLUA that embodied all the recommendations including one correction that needed to be made.

Council Member Scharff asked what the correction was.

Mr. Williams stated Staff’s recommendation was to incorporate the HRB’s review of the replacement structure to satisfy one of the conditions and for the record, to include the mitigation monitoring checklist that was set “at places” at this evening’s meeting.

Council Member Scharff asked which mitigations Staff was referring to.

Mr. Williams stated they were included in the Mitigation Monitoring Program from the DEIR and were “at places.”

Mr. Baum stated they were omitted from the ROLUA because it had not been provided until today.

Council Member Scharff asked if the mitigation measures were being asked to be compatible with the Professorville District and made reference to the Secretary of Interior Standards which seemed to be two different issues.

Mr. Williams stated it was consistent with the Secretary of Interior Standards for Rehabilitation as they applied to the Professorville District.

Ms. Caporgno stated Standard 9 dealt with components of both rehabilitation and new construction. The Staff reviewed and identified the elements that made up the structure’s compatibility. She stated most of the elements had been met except for those called out in the mitigation measure and the need for an increased articulation forum; 1) to provide more organized elevation
composition, 2) need for greater use of traditional elements executed in non-traditional materials, 3) need for warmer color palette, and 4) the need for further simplification in residential building eave lines. All elements needed to be met by the project evaluated in the EIR.

Council Member Scharff asked Staff if the following had occurred; 1) the Applicant approach the City, 2) the City suggest a historic consultant to advise them on how to make their project compatible with the Secretary of Interior Standards, and 3) did the Applicant hire the consultant.

Ms. Caporgno stated the City selected an EIR consultant and a historic consultant to prepare the analysis since an environmental review was required. There were no guidelines that defined compatibility since it was a new structure in the district. The historic consultant prepared compatibility standards based on the Secretary of Interior Standards and discussed them with the Applicant. The Applicant designed the house with the intent to meet the compatibility standards. The compatibility standards developed by the City based on the Secretary of Interior Standards were the parameters used to build the house. The Applicants had hired a separate consultant to evaluate the City’s conditions.

Council Member Scharff asked if the City’s consultant found the standards to be compatible with Secretary of Interior Standards.

Ms. Caporgno stated several of the compatibilities were met with the exception of the four she previously stated.

Council Member Price asked should the item return to the HRB, what the expectations for the Applicant were in regards to the parameters, latitude, and timeframe.

Mr. Williams stated the City’s Historical Code required the HRB to review replacement structures within a historic district. The direction would be for the HRB to look at the replacement structure, focus on the four criteria of mitigations mentioned and provide Staff with input and advice on how the mitigations were being implemented by the Applicant. Staff would review the HRB’s findings and the historic consultant’s findings prior to making a determination. The estimated timeframe would be a 6 to 8 week process in agendizing the item with the HRB and have them report back to Staff for a determination. The Applicant could work on any outstanding issues if they so desired which would lengthen the process.

Council Member Schmid stated the Council had rejected the environmentally superior alternative as it did not meet the project objectives as listed in
Section 3.2 of the DEIR. He stated he had not read or heard discussion as to why Staff felt Section 3.2 overrode the HRB’s discussion and felt the issue would need to go back to Staff to determine why one was superior to the other.

Mr. Williams stated the ROLUA indicated the alternative was rejected, as not being feasible and not meeting the project objectives. It was for those reasons Staff recommended the EIR be certified and the Demolition Delay be approved. The Applicant would proceed with the demolition under the Demolition Delay if both actions were taken, absent any other kind of specific action by the Council. A replacement structure would require HRB’s input.

Council Member Schmid stated there were two recommendations before the Council including the HRB’s recommendation and he wanted to know why Staff preferred the replacement rather than the expansion. Ms. Caporgno stated Staff needed to rely on how the objectives were being met by the Applicant. Staff supported the replacement structure because the Applicant had submitted a letter outlining why structurally it was not feasible for the building to be retained, and to get the adequate square footage from an expansion project.

Council Member Scharff stated it was the document from the Applicant that Staff agreed was the preferred alternative.

Ms. Caporgno stated that was correct and the document was attached to the Staff Report.

Mr. Baum stated the Council was the lead agency and part of certifying the EIR included choosing one of the alternatives.

Council Member Shepherd stated it was her understanding that the HRB had agreed with the Palo Alto/Stanford Historical Society that the building should be considered as a preemptive category and not a discretionary category. She asked if it would have made a difference in the recommendations if Staff had agreed with the consideration of the home in the Professorville District.

Mr. Williams asked Council Member Shepherd if she meant by preemptive if the building was classified as a Category 2.

Council Member Shepherd stated yes.

Mr. Williams stated absolutely.
Council Member Shepherd asked Staff to explain why the City was not in agreement with the Palo Alto Historical Society and the HRB. She asked if it was because Staff had categorized the building.

Mr. Williams stated some of the structures had been reviewed and categorized by number. Not all contributing structures were categorized unless there was a need. He explained the historical consultant hired by the City confirmed the structure in question was not of significant historical value and therefore did not require to be categorized. The EIR was based on the recommendations by the historical consultant.

Council Member Shepherd stated it was her understanding that the HRB found the structure to be a prescriptive building.

Mr. Bower stated the discussion brought out the ambiguity of the Secretary of Interior Standards. It was a set of standards and together when applied to a district or an individual building, then you come to a determination of whether or not it was significant.

Ms. Caporgno stated the FEIR mentioned the three factors that went into why Staff determined the structure was not significant as a contributor. The structure did not affect adversely the integrity of the district, it was not a significant style, it was small and single-story and not an obvious building in the district.

Council Member Shepherd asked if the HRB reviewed the mitigation list or were they only required to review the DEIR.

Mr. Williams stated it was his understanding the HRB’s review was mandatory.

Ms. Caporgno stated the HRB supported the DEIR which identified the four mitigations.

Vice Mayor Espinosa asked Staff to explain how the City would approach issues of this setting precedent in projects moving forward.

Mr. Williams stated it would be a combination of Staff adjusting to the process such as starting with a study and a historical analysis prior to making a determination whether an EIR would be necessary. Council had the authority to determine whether every contributing structure had an impact under CEQA rule. He felt the Demolition Delay Ordinance should no longer be discretionary. Anything that needed to be accomplished beyond the Individual Review (IR) should return to Council in a policy format.
Council Member Holman referred to CMR 387:10, page 5 regarding the three criteria used to ascertain the significance of the structure. She stated No. 2 noted 405 Lincoln Avenue was one of the smallest contributors in the district, No. 3 noted the structure was a single story and was not considered a dominant presence in the district.

Ms. Caporgno stated the combination of three factors helped to determine the structure was not a significant contributor were; 1) the building did not have a dominant style, 2) it was unobtrusive, and 3) the building itself was small; therefore, a rebuild would not create a significant loss to the district.

Council Member Holman asked Staff to differentiate between No. 2 and No. 3 clarifying the building was one of the smallest contributors and not a dominant presence.

Ms. Caporgno stated that the demolition would not have a significant impact due to; 1) it being only 2,000 square feet, 2) a single story, and 3) the building did not have a dominant style in the district.

Public hearing opened at 10:34 p.m.

Allen Akin, Applicant, stated the house was referred to as a contributor under the District Nomination Form. The form defined the characteristics of the Professorville District and noted 405 Lincoln Avenue lacked all of the necessary characteristics. The Building was not associated with a Stanford Professor, did not possess one of the architectural styles and lacked ample material landscaping. The EIR had concluded 405 Lincoln Avenue was not a significant contributor. He stated the City’s historic consultant had set guidelines for compatibility as part of the EIR and great efforts had been made to produce a design that was consistent with the Secretary of Interior Standards. The categorizing of the house had been examined in two surveys and found not to be significant and not required to be a numbered category. The functionality of the alternative design was insufficient to meet the needs which were identified and covered in the description attached to the Staff Report including lack of yard space and lack of accessibility for disabled parents.

Tom Jack, Palo Alto, supported the demolition of the building. He had worked on historic homes for several years and found no compelling reason to preserve the structure in question. He resided a few blocks from 405 Lincoln Avenue for 41 years and urged the demolition and replacement.
Jason Trindade, Palo Alto, urged the City to review issues considered as variances and apply them accordingly to the home.

Carmo Trindade, Palo Alto, stated there had been insufficient discussion with the Historic Resources Board (HRB) to determine a Demolition Delay.

Drew Maran, Palo Alto, was in support of replacing the structure. The energy consumption in a restored home was greater than the carbon footprint of a new home.

Michael Dreyfus, Palo Alto, spoke on how unjust the Applicant had been treated in the process. He stated on the issue of preservation, to restore the home to exactly what it looked like would be like building a new home and would not be preserving anything.

Michelle Arden read a letter from Mark Wardenberg and Terry Alana Hunter in support of the Applicant building a new home. Karen Nashville stated the Applicants had complied with all the rules and regulations required of a resident to build a home in the Professorville District and was in support of the project.

Jeanne Lavan read a letter from Susan Haviland who was in support of the project. She stated she had seen the plans and it appeared to be a good job of blending in with the historic neighborhood.

Bill Glazier spoke regarding the Applicants having performed all of the necessary requirements to remodel the home. He was in support of the remodel and requested Council approval of the project.

Joe Barta stated the house in question was not of significant historic importance to Professorville nor was it made of sound structure and he supported the remodel.

Beth Bunnenberg spoke of the history of the creation of Professorville. The historic relevance of the homes within Professorville were historic not based on their structure but by their history itself. She noted the Draft Environmental Impact Report (DEIR) recommended environmentally superior alternatives that would maintain the integrity.

Richard Brand stated Professorville was made up of small houses and unique characteristics. He supported the Staff recommendation.

David Lieberman stated according to the National Historic Registry, the 400 block of Lincoln Avenue was not part of the historic preservation. City Staff
had declared the Applicants had met every requirement to receive a demolition permit; therefore a permit should be granted.

Barbara Wallace stated the cumulative impacts of demolition of the home had raised great concern with a number of residents. She noted there had been no community outreach to the neighbors for their consideration.

Stephen Cassidy, as counsel for the Applicant, stated for CEQA purposes the historic resource was Professorville and not the residence itself. The EIR had concluded the residence itself was not significant to Professorville. The DEIR and the FEIR supported the notion even as a contributor home, the demolition and construction of a new residence would not have a material impairment to the Professorville District; which was the CEQA standard. He clarified the issue in front of the City Council was the adequacy of the EIR. He noted the Applicant had demonstrated a willingness to ensure the issue brought forth would be addressed to the extent possible.

Public hearing closed at 11:23 p.m.

Vice Mayor Espinosa stated the City had some debate over the years regarding historic preservation. He noted the leadership role of the Historic Resources Board (HRB) to maintain and treasure the historic structures of Palo Alto was well respected. He stated there was a process in place to assist the citizens who purchase property; unfortunately, the process had undergone a change during the Applicants’ request for renovation.

**MOTION:** Vice Mayor Espinosa moved, seconded by Council Member Scharff to: 1) certify the Final Environmental Impact Report finding it complete and adequate under the requirements of the California Environmental Quality Act (CEQA), 2) find the Demolition Delay request for an existing structure at 405 Lincoln can be satisfied with the minimum 60 day moratorium, 3) approval of the Record of Land Use Action, 4) refer review of any revised plan for the site to the Historic Resources Board for evaluation of compatibility with the Professorville Historic District, and 5) include in the Record of Land Use Action the Mitigation Monitoring Checklist, with the inclusion that the City Council finds the environmental impact is reduced to less than significant due to incorporation.

Council Member Scharff stated in review of the EIR it appeared there were no significant impacts to the District nor was the property a significant historic structure. He requested the Council support the Motion.

Council Member Holman requested the Motion be repeated and the portion regarding the FIER be clarified.
Vice Mayor Espinosa repeated the Motion and asked for Staff clarification on Section 6 and 7 of the Record of Land Use Action (ROLUA).

Mr. Williams stated Section 6 and 7 reflected similar verbiage in regards to the ROLUA. He clarified the language in the Staff Report referred to the HRB reviewing and revised plan for the site and comment to the Director of Planning.

Council Member Scharff asked Staff whether the action being requested should be placed in Section 6 or 7 of the ROLUA.

Mr. Williams stated the language would be more suited to be added into Section 7 as a condition to read as follows: revised plan for replacement structure shall be reviewed by HRB and comments provided to the Director of Planning for determination.

Council Member Holman stated the FEIR did not focus on the demolition of the resource but rather the replacement structure. The City Charter noted that all historic structures were of significance where as the FEIR failed to recognize the project as such. She wanted to express the neighbors in Professorville had spoken out in unison for retention of the structure which made a statement to her regarding the importance for the neighborhood to maintain its history.

Council Member Price stated she would be supporting the Motion.

Council Member Klein stated the current process was in need of repair. He noted public policy throughout the City allowed for demolition with the exception of the Downtown District; CEQA should not be allowed to blindside the policy. He stated he supported the Motion and requested to add the following verbiage to Section 7: to insure the HRB hearing was held and their advice given to the Director of Planning within a specified time line.

Mr. Williams suggested the language read within 30 days of the Applicants submittal of plans.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to include in the Record of Land Use Section 7 the Historic Resources Board hearing with comments to the Planning Director will be within 30 days of the applicant submitting their plans.

Council Member Klein requested in Section 5 the language read “shall be satisfied within 60 days from the date of City Council action”.

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Mr. Williams clarified the language presented by Staff read “a delay of 60 days after the date of this action but no sooner than the date of all Planning approvals had been granted”.

Council Member Klein suggested striking the portion of the language referring to the Planning approvals.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** change the last part of the sentence in Section 5 to-this time period shall be satisfied within 60 days of October 25, 2010.

Council Member Shepherd felt had a Study Session with the HRB occurred early in the process of this project there may have been more understanding and less delay. She requested Staff return to Council with a clear and concise understanding of the CEQA process and the defined rule of operation in a historic district. She shared her concern with a project being underway for three and a half years prior to Council or any Board or Commission having been privy to it. She stated she would be supporting the Motion.

Council Member Holman asked what happened if after the 30 days the plans were not deemed to be acceptable by the HRB or the Director of Planning.

Mr. Williams stated the HRB advises and therefore had the ability to state whether there were compatibility concerns. He clarified if the plans did not meet the standards set forth, the project would be denied. He noted 30 days was an adequate timeframe to get a project before the HRB.

Council Member Holman stated if the HRB recommended to the Director of Planning a project which was not compatible, what happened at that point.

Chief Planning and Transportation Official, Julie Caporgno stated the Director of Planning would not have a decision in 30 days. The Director used the HRB recommendations to complete the Individual Review (IR) process which may take up to 60 days.

Council Member Klein stated his proposed language accepted and incorporated into the Motion did not affect the Director’s timeframe.

Council Member Holman clarified the Director could return the project to the HRB if the findings were not compatible.

Council Member Klein stated the idea was for the HRB to provide advice to the Director of Planning within the 30 days from the date of submission.
Ms. Caporgno stated the EIR had focused the compatibility discussion to the mitigation measures with the four components which would be the determination for compatibility. There were suggestions in the EIR as to how the mitigations could be met.

Council Member Holman stated if a building was demolished prior to the new construction beginning, the site was left as a patch of dirt and weeds. She asked why there needed to be a 60 day demolition schedule.

Council Member Klein stated the process needed to move forward quickly and presenting a timeline gave the perception of an end time.

**AMENDMENT:** Council Member Holman moved, seconded by Council Member XXX to delete the demolition prior to the approval of the permits.

**AMENDMENT FAILED DUE TO LACK OF A SECOND**

City Attorney, Gary Baum noted there was a change to Section 4 to read “the City Council hereby finds the Environmental Impact has been reduced to a level less significant due to incorporation of the mitigation measure as listed in the mitigation monitoring check list including mitigation measure 4-1”.

Mayor Burt asked for an estimated timeframe for Staff to return the improved process to Council with the adopted changes.

Mr. Williams stated Staff could return to Council with a report showing the key components within three months.

**MOTION PASSED:** 8-1 Holman no
TO: HONORABLE CITY COUNCIL
FROM: CITY MANAGER DEPARTMENT: PLANNING AND COMMUNITY ENVIRONMENT
DATE: OCTOBER 25, 2010
REPORT TYPE: PUBLIC HEARING
SUBJECT: Certification of the Final Environmental Impact Report (FEIR) for the proposed 405 Lincoln Avenue Single Family Residential Replacement Project and approval of Demolition Delay in conjunction with a request for a Demolition Permit for the existing residence at 405 Lincoln Avenue, which is listed as a Contributing Structure in the Professorville National Register Historic District and a contributing resource to the Professorville Historic District.

EXECUTIVE SUMMARY
The project is the demolition and replacement of a single family house in the Professorville Historic District. The existing house is listed as a contributing structure to Professorville on both the National Register of Historic Places and on the City’s Historic Inventory. An Environmental Impact Report has been prepared for the project addressing the impacts from loss of the contributing structure, its loss on the district and the compatibility of the proposed replacement structure within the historic district. The EIR concluded that the project impacts are less than significant. The proposed project is subject to the City’s Historic Preservation Ordinance requiring a demolition moratorium of a minimum of 60 days up to a maximum of one year prior to demolition of the existing structure.

RECOMMENDATION
Staff and the HRB recommend that the City Council:
1. Certify the Final Environmental Impact Report finding it complete and adequate under the requirements of the California Environmental Quality Act (CEQA)
2. Find that the Demolition Delay request for the existing structure at 405 Lincoln can be satisfied with the minimum 60 day moratorium; and,
3. Refer review of any revised plan for the site to the Historic Resources Board for evaluation of compatibility with the Professorville Historic District.
BACKGROUND

On June 14, 2007, the owners/applicants of the single family residence at 405 Lincoln Ave. applied for HRB review of a Demolition Delay request to enable demolition of the existing house, a Spanish Colonial Revival constructed circa 1923. The applicants had been advised by staff that since the property is listed as a contributing resource to the Professorville National Register Historic District on the City's Historic Inventory, it is subject to a demolition moratorium in accordance with the City's Historic Preservation Ordinance and that the demolition of the existing structure would be allowed once a two month to one year demolition moratorium had been satisfied. The structure is also listed on the National Register of Historic Places as a contributing structure in the Professorville Historic District.

Shortly after submission of the application for Demolition Delay in June, the City Attorney determined based upon a trial court ruling in a City of Palo Alto lawsuit that the demolition delay process was subject to the California Environmental Quality Act; and, therefore, environmental review was required. The City decided to prepare an Environmental Impact Report (EIR) for the project since, absent mitigation, demolition of the building had the potential for resulting in a direct adverse impact on the Professorville Historic District.

On August 10, 2007, the applicants submitted the additional request and deposit for preparation of an EIR for the project. The EIR would provide CEQA-required documentation for the following two City approvals required for the project: Demolition Delay and Individual Review of the replacement structure. The applicants’ architect completed an initial design of the replacement structure in early 2008, and submitted the plans to the City for review for compatibility with the Professorville Historic District. Over the next year and a half, the plans for the replacement structure were modified several times as a result of meetings with staff and the historic architect hired by the City to evaluate the project as part of the EIR process. The EIR was to evaluate significance of the loss of the individual structure, the effects of removal of the contributing structure on the Professorville district and the compatibility of the proposed replacement structure on the district.

In August, 2009, the applicant submitted final plans for the replacement residence to be analyzed for compatibility with the Professorville Historic District in the project EIR. Over the following year, multiple iterations of the design were reviewed and discussed by the City’s historic consultant, staff, the project architect and the owners. The DEIR began circulation on July 27, 2010 for a 53 day review period, ending circulation on September 17, 2010. Twenty-one letters and emails were received on the EIR during the circulation period. On September 1, 2010, the HRB held a public hearing to take testimony on the adequacy of the DEIR. Thirteen speakers provided testimony at the hearing; the majority expressed concern regarding the loss of the existing structure. The minutes from the September 1st meeting are included in the Final Environmental Impact Report (Attachment A) along with responses to each of the issues raised by the speakers. On October 6, 2010, the HRB held its second hearing on the project focusing on the length of the Demolition Delay requirement and the evaluation of the replacement structure and its compatibility with the Professorville Historic District. The minutes from that meeting are attached (Attachment B).
DISCUSSION
For this project, the City Council is being asked to act on two items. First, the City Council is required to determine if the Final Environmental Impact Report (FEIR) for the project is complete and adequate under the provisions of the California Environmental Quality Act (CEQA). If the City Council certifies the FEIR, then the Council should determine the appropriate time limit for the Demolition Delay moratorium as provided for in the City’s Historic Preservation Ordinance, which ranges from the mandatory two month period up to a maximum of one year.

Summary and Adequacy of EIR
The following criteria were used in the DEIR to determine if the project would result in a significant cultural resource impact. Although not officially adopted by the City Council, these criteria are consistently used by the City on projects with historic resources requiring environmental review.

- Adversely affect (resource has lost its integrity) a historic resource listed or eligible for listing on the National and/or California Register, or listed on the City’s Historic Inventory; or
- Eliminate important examples of major periods of California history or prehistory

The evaluation in the DEIR by the historic consultant concluded that the existing residence at 405 Lincoln is not considered a “historic resource” based on California state criteria established in the CEQA guidelines nor does its removal within the Professorville Historic District result in a loss of the district’s integrity as a historic resource; therefore, the DEIR concluded that the demolition of the existing residence at 405 Lincoln results in a less than significant impact. However, the DEIR concludes that the proposed replacement structure could be incompatible with the district and, as a result, adversely affect the integrity of the district since the color and materials palette, building eave lines, fenestration and massing characteristics, wood trellis and shading elements are not sufficiently reflective of the Spanish Eclectic style and not sufficiently compatible with the district. The DEIR identifies mitigations that would reduce these impacts to a less than significant level and suggests ways to implement these mitigations, but other options could be considered. The applicant has agreed to comply with these mitigation measures.

DEIR Alternatives
The DEIR addresses three alternatives to the proposed project and their ability to meet the applicant’s objectives for the project and identifies an environmentally superior alternative. The No Project alternative would result in no impacts on the district; however, none of the project objectives could be realized by this alternative. Alternative 2, Retention and Expansion of the Existing Residence, is considered the environmentally superior alternative since the building would be retained within the district; however, the design of the addition has the potential to result in impacts to the existing structure
dependent on the extent and nature of the building alterations. This alternative would not meet the project objective.

The third alternative, Relocation of the existing residence, would have the same impact on the district as the project since the site would be redeveloped with a new building.

In addition, relocating the existing residence outside the district would not achieve any benefit since the existing residence’s historic value is as a contributor in the Professorville Historic District.

**Key Environmental Issues**

Of the various comments received on the DEIR, the two that were most significant from a CEQA adequacy standpoint to be addressed in the FEIR were:

- The cumulative impact from the loss of the structure on the Professorville district;
- The significance of the existing structure, individually and as a contributor.

The DEIR concludes that the cumulative impact from loss of the structure at 405 Lincoln would not result in a significant impact due to the fact that the district retains its historic integrity after removal of this one contributor and that the district has had limited change over time. To further support that position, staff did further research on the status of demolitions and alterations in the Professorville district. The two reports appended to the FEIR identify that there are 195 parcels in the Professorville area. 115 of these parcels are in the National Register District area; 80 are in the Expanded District area. Over the last ten years (1999-2010) the number of non-contributors in the district has remained constant at 50 (25% of the district parcels). 12% of the National Register district area consists of non-contributors with 45% non-contributors in the Expanded District. Since designation of the National Register District in 1980, four demolitions have occurred in that area. One demolition has occurred in the Expanded District since its listing on the City’s Historic Inventory in 1993. As a result the FEIR concludes that the cumulative loss from the removal of the contributing structure at 405 Lincoln results in a less than significant impact on the district.

**EIR Conclusions**

The DEIR concludes that the loss of the individual building at 405 Lincoln results in a less than significant impact both individually and on the Professorville district. Although additional information was provided in the comments received on the DEIR regarding the owners of the house and their significance locally in the community, the FEIR concludes that this information does not elevate the structure to a level of significance for CEQA purposes. The structure does not meet the National or California criteria for individual listing on either the federal or state register, it is not singled out on the National Register.
form as a significant building, nor is it designated on the City’s Inventory as an individual structure in one of the four categories of significance.

Regarding its significance as a contributor to the district, although it is recognized that the demolition of the house would cause an interruption in the system of relationships that constitutes the Professorville historic district, this particular interruption is considered less than significant because:

1. The structure at 405 Lincoln is not an example of one of the dominant styles of the Professorville historic district for which the district is listed on the National Register. These styles are Craftsman, Shingle, Wood Bungalow, Colonial Revival or a mixture of these styles.
2. The structure at 405 Lincoln is one of the smallest contributors in the district; and
3. The structure at 405 Lincoln is one story and is not considered a dominant presence in the district.

Policy Implications of Conclusions
It also should be noted that if “contributing” status automatically determines significance, there are broader ramifications for the City; all contributing structures in Greenmeadow and Green Gables, both National Register districts, would be subject to preparation of an EIR and City Council override of impacts if any changes were proposed to contributing structures in those districts that were inconsistent with Secretary of Interior’s standards or if any contributing structure was proposed for demolition.

Length of Demolition Delay
The second issue for determination by the Council is the length of the demolition delay, which may vary between 60 days and one year. The sixty-day moratorium required for this application should be considered adequate based on the following:

1. This project has been on file for the last three years but since the Demolition Delay process requires CEQA review, it has not been possible to proceed with the Demolition Delay request in a timely manner. In compliance with the intent of the Demolition Delay process, this three-year period has provided sufficient opportunity for the any member of the public interested in relocating the house to come forward since its availability has been well publicized; and there has been adequate time to gather information about the property’s significance, which is documented in the DEIR.
2. A precedent for limiting the review based on extenuating circumstances was set in 2000 when the HRB allowed the minimum demolition delay of 60 days for a residential structure located at 364 Kingsley after a protracted three year administrative process by the property owner to obtain a demolition permit.
3. The applicants have been sufficiently exposed to extensive and comprehensive historic information about their property, and they have engaged in considerable dialogue with
qualified historic and architectural consultants regarding the historic integrity of the property.

4. This process has continued for two years longer than the maximum moratorium time limit considered appropriate by the Historic Preservation Ordinance.

Historic Resources Board Discussion and Recommendation

The HRB held its second hearing on the project on October 6, 2010. The focus of the discussion was the demolition delay process and the future plans for the project site. During public testimony, five speakers spoke opposing the new structure; one speaker was in favor of the proposed project.

The board considered that the DEIR was adequate recognizing that the CEQA process had not been completed since the FEIR was not yet available. For the reasons cited in the discussion of Demolition Delay below, the board concluded that the Demolition Delay process should not be extended beyond the minimum 60 day requirement. The board supported the environmentally superior alternative described in the DEIR which retains the existing structure and allows for expansion rather than demolition. As a result, the board did not discuss the proposed replacement structure and its compatibility with the historic district or its compliance with the DEIR mitigations.

The Board recommendation to the City Council included the following:

1. The DEIR is adequate under CEQA;
2. The Demolition Delay should be limited to 60 days if the building is to be demolished and the demolition should not occur prior to issuance of a building permit.
3. The Environmentally Superior Alternative should be pursued if legally possible (see Attachment C) and any new plan for the site should return to the HRB for review and recommendation to the Director of Planning regarding compatibility with the Professorville Historic District and conformance with the EIR mitigations.

CONCLUSION

In conclusion, staff and the HRB recommend that: 1) the FEIR is complete and adequate under the requirements of the California Environmental Quality Act; 2) the Demolition Delay moratorium has been satisfied and the minimum 60-day requirement is adequate, but recommend the demolition permit should only be issued in conjunction with the building permit; and 3) the Single Family Individual Review project should be referred to the HRB prior to action by the Director of Planning to ensure that the structure is compatible with the Professorville Historic District and complies with the compatibility findings and the mitigation requirements in the FEIR.

PREPARED BY:

JULIE CAPORGNO
Chief Planning Official
DEPARTMENT HEAD REVIEW:  Curtis Williams  
CURTIS WILLIAMS, Director  
Planning and Community Environment

CITY MANAGER APPROVAL:  JAMES KEENE  
City Manager

ATTACHMENTS
Attachment A: Minutes from October 6, 2010 HRB meeting  
Attachment B: Final Environmental Impact Report (Councilmembers only)  
Attachment C: Letter from Michelle Arden regarding Alternative Design

COURTESY COPIES
Michelle Arden and Allen Akin
HISTORIC RESOURCES BOARD
MINUTES

MEETINGS ARE CABLECAST LIVE ON GOVERNMENT ACCESS CHANNEL 26

Wednesday, October 6, 2010
REGULAR MEETING – 8:00 AM
Council Chambers
Civic Center, 1st Floor
250 Hamilton Avenue
Palo Alto, California 94301

ROLL CALL:
Board Members:
David Bower, Chair
Natalie Loukianoff, Vice-Chair, absent
Roger Kohler
Patricia DiCicco
Beth Bunnenberg
Michael Makinen
Martin Bernstein

Staff:
Julie Caporgno, Chief P&T Official
Gary Baum, City Attorney
Diana Tamale, Admin. Associate

NEW BUSINESS
Public Hearings

Public hearing regarding 1) recommendation by the Historic Resources Board to the City Council on the Demolition Delay process for the existing residence at 405 Lincoln Avenue listed on both the National Register of Historic Places and on the City’s Historic Inventory as a Contributing Structure in the Professorville Historic District; and 2) for review and recommendation to the Director of Planning and Community Environment of the proposed replacement residence for compatibility with the Professorville Historic District. A Draft Environmental Impact Report has been prepared for the project.

Chair Bower: Thank you, Diana, this is a continuation, and I think that’s the appropriate term, of the meeting that began on September 1st of this year, and it is a review of the proposed demolition and the review of the Replacement Structure that the demolition would allow. We have already had part of this hearing that we had in September, reviewed the Environmental Impact Report (EIR), the draft report, and that report is now final, is that right? Okay, so we won’t be addressing that directly this morning because we’ve already had that portion of the hearing.
So we want to start this morning with the Demolition Delay, but let me first say that—I want to first say that the procedure will be slightly different today because we’re not going to have an open—I’m not opening the Public Hearing about the EIR unless the Board feels that we should do that, and we’ll get to that. So we’re limiting it today to public testimony for those who did not comment on—and the last time on the EIR, we would allow that comment, but only people who did not comment before. Other comments we’ll allow on the demolition and the structure reviewed.

So the process that we will follow this morning is I’ll announce the Agenda item, we’ll open the Public Hearing on the Demolition Delay and the Replacement Structure. We’ll ask the Applicant to present for ten minutes their materials on those two topics. The Applicant can also make a presentation on the EIR if you choose. You chose not to last time, but that’s available to you since you did not make comments. We’ll take Public Comments on the Demolition Delay and the Replacement Structure. We’ll close—the Applicant will have an opportunity to address those comments, close the Public Hearing, and then the Board will discuss these particular issues and make the recommendations and Motions.

Boardmember Bunnenberg: I need to recuse myself from this item due to a conflict of interest in terms of commenting too early on the DEIR. So I should recuse myself at this point, but I wish to submit a comment card on the Demolition Delay.

Chair Bower: All right, before we begin the hearing, there is an Oral Communications period for anyone who wants to speak on any item that is not on the Agenda today. I have not received any requests to do that, so we’ll move forward with the next item of business which is Approval of Minutes for September 1st and September 15th. Any corrections in the Minutes from any of the Boardmembers. No corrections.

Motion and second to approve minutes from September 1, 2010.

All right, September 15th meeting minutes. I was not at that meeting, so I won’t vote, but—and Mike wasn’t either. That means there are only three people voting on it and no quorum, so we will just do that next—we’ll reschedule that for our next meeting.

Then I’ll open the meeting, the hearing to review the Demolition Delay and the Replacement Structure for 405 Lincoln. I’d like to have Julie present that, if you would, the Staff Recommendations and then Discussion.

Julie Caporgno, Chief Planning and Transportation Official: Thank you, Chair Bower. I wanted to give you a little bit of a background on the Demo Delay process and the City’s Historic Preservation Ordinance. The Preservation Ordinance allows demolition of any structure in Professorville after the Demolition Delay process has been satisfied. The Demolition Delay process is for a minimum of two months, up to one year, and the Board makes a recommendation to the City Council and the City Council makes the determination as to the extent of the Demolition Delay Moratorium.
The only area in Palo Alto that prohibits demolition of historic properties is in the Downtown CD and only for Category 1 and 2 properties. The reason I wanted to identify that, or go through the process, although I know the Board is familiar with it, but there's been some—some of the comments that we've received from the public have indicated that, in our discussions with the applicants when they first came in, that there was some misinformation provided to them, that demolition isn't allowed in Professorville, and that's not the case.

The only restriction is the Demolition Delay process. The change that has occurred since/within the last three years, from the time that the applicants purchased the 405 Lincoln property, submitted an application for a Demolition Delay and then proceeded with it was that the City because of a recent court decision, now considers the Demolition Delay process discretionary and, therefore, environmental review is required. So for this project we required an Environmental Impact Report to be prepared but, as far as the Demolition Delay process, that was in place before. It's the same as it was previously.

As I mentioned, we require now CEQA review for a Demolition Delay moratorium. This project is the only one that has come forward since that decision has been made and the EIR for the project, as you know, addressed the significance of the existing building. It also addressed the loss of the historic structure on the District and it addressed the compatibility of the replacement structure within the District.

Eventually, the City Council will have to make a determination as to the adequacy of the EIR. You held a Public Hearing on that EIR during your last meeting, and the Council will also have to identify the length of the Demolition Delay Moratorium if the EIR is found to be adequate.

We are asking the Board today to make a recommendation on the Demolition Delay, the extent of the time required prior to issuance of a demolition permit. We're recommending that you determine that either it's the minimum or the entire Demolition Delay process has been satisfied because of the fact that this project has been ongoing for three years, and there has been sufficient Public Notice that the project is underway. There is an IR sign at the property, which indicates that there is an IR application on file. Many of the people from the Historic Preservation sector are aware of this, and so the opportunities for helping find a relocation site—well, in this particular case, a replacement site really wouldn't satisfy anything because the importance of the building is in the context of the District, but I think that the rationale behind the Demolition Delay process has been satisfied, so that's why Staff is recommending that you either recommend the two-month delay or you conclude that it has been satisfied.

The other thing that we would like you to do this morning is to evaluate the Replacement Structure and is compatibility with the Professorville Historic District. The Environmental Impact Report that you had reviewed previously analyzed the new structure in the context of the Professorville Historic District and it identified that there were certain shortcomings with the proposed project. The applicant has made some revisions to the project to address those impacts that were identified in the EIR and
provide mitigations that were outlined in the EIR; we are requesting that the Board
review the Replacement Structure based within that context.

The other item that I wanted to raise was, at the hearing on September 1st, there was a
former Boardmember as well as I think some of the current Boardmembers concerned
about the existing District’s integrity; there was discussion about a percentage of
retention of structures and what would—how much, or was there a threshold for a
percentage that would be meaningful for retention of the integrity of the District.

There isn’t a magic number, but we can give you the data, or I can give you the data as to
how many parcels are in the Professorville Historic District, and also how many are
contributors and noncontributors, and how many have been modified or removed over the
period of time since the District was incorporated, how many structures have been
demolished.

First of all, there are 199 parcels in Professorville, and this includes the expanded area,
and 50 of those parcels are noncontributing and 147 are contributing and one parcel is
vacant. In the National Register District itself, there are 114 properties, and there are 100
contributors and 14 noncontributors which is only 12 percent of the District, and 88
percent of the District is contributing to the integrity of the District.

In the expanded area there, alone, there are 82 parcels. Forty of them are contributors
and 36 are noncontributors, with 56 percent of them contributing. I think if you add in
the expanded area to the overall picture it somewhat skews the integrity of the District.
My understanding of when that expanded District was formed was it was done to try to
clean up the boundaries, and so a lot of parcels that were included in the expanded
District at the time were noncontributing structures.

Since 1980, there have been four (4) contributors demolished in the National Register
District, and since 1993 (when the District was expanded) one significantly altered
contributor was demolished that is in the expanded District. So if you look at the District
as a whole, since 1980 five structures have been demolished; when you take into
consideration just the National Register District, there are four (4) demolished with 88
percent integrity.

So, from a standpoint of this one structure, the Historic Consultant who evaluated the loss
on the District from the removal of the structure concluded that its loss would not be
significant and the District would retain its integrity because it’s not an exemplary
building for the architectural style and the loss of this one contributing building is not
going to have significant impacts on the integrity of the District.

John Wagstaff, EIR Consultant: I would only add that the thrust of the mitigation
program in the EIR is to—the intent is to provide for a design that is, itself, a replacement
design which would be compatible with the District. That’s the whole thrust of the
Design Review Process that has caught on over these many months, and the final tweaks
that are recommended in the Draft EIR.
Ms. Caporgno: Then, the final thing I wanted to add was that I had mentioned at the meeting on September 1st that when the final EIR is prepared you all will receive a copy of it. We’re still in the process of addressing the comments that were made at the Public Hearing, as well as the comments that were received in writing, and we should have the Final EIR available next week.

The discussion of the Final EIR by the City Council is currently scheduled for October 25th, so we are obligated by State Law to have the Final EIR out at least ten days before the Public Hearing, so if we are going to go on October 25th, we’ll have to have the Final EIR available on the 15th of October. So we will definitely be getting the Board a copy of the Final EIR as well as it will be posted online.

Any comments (either at the meeting on September 1st or anyone who has submitted comments in writing), will either be getting a copy of the Final EIR, or will at least have—we will be sending them email information on how they can access the Final EIR online because some of them, if we have email-only addresses, we can’t send them anything, but we can send them a link to the Final EIR which will be posted online.

That concludes our Staff Report, and we’re here for any questions you might have.

Chair Bower: Excuse me, let me ask a couple of questions, just so I can get the sense of what we want to accomplish here today.

Should the Board, or are we expected to, vote to accept the EIR as we saw it? Do we have any—is there any issue about making Motions about that document?

City Attorney, Gary Baum: It’s my opinion that the Historic Resources Board can make a recommendation to the Council to accept the EIR, or to make changes to the EIR, or both.

Chair Bower: Or reject it?

Mr. Baum: Accept with changes or reject. Rejection alone isn’t going to provide them with enough guidance. You need to tell them what the issues are.

Chair Bower: Okay, and then we would discuss and make a Motion to either—to establish the Demolition Delay timeframe, is that correct? Could we eliminate any delay, since we’ve had a three-year period?

Mr. Baum: Yes.

Chair Bower: Okay, and then the final one, which is compatibility of the new structure with the Historic District. Has the Staff finished their negotiations with the client and the client’s architect about the issues that were raised in the EIR report?
Ms. Caporgno: The project is going to have to go through, and I forgot to mention this, the Individual Review (IR) process. Staff has looked at it kind of in an initial evaluation in conjunction with IR guidelines, and we’ve had the City’s outside consultant evaluate it too, but there hasn’t been any decision made on it, and that—the EIR needs to be certified by the City Council before the Director of Planning can make a decision on the IR.

We are recommending that the Board make comments regarding the Replacement Structure, and if they need more time, that’s something you could do—continue that item, based on whatever concerns you identify for an ensuing hearing, you could do that, but the critical component today for you to get through is the Demolition Delay process so that recommendation can be made to the City Council.

Chair Bower: Okay, thank you. So I think where we should begin is with an Applicant presentation, and then we’ll just follow the list of Standard Procedure. So, we’d like to hear from the Applicants. And, again, I’d like very much not to go back to the Environmental Impact Report. You have an opportunity to address that, because you haven’t, but for the rest of the audience, I’d like to have that remain closed.

Allen Akin, Project Applicant: In fact, that’s my preference as well. I’m Allen Akin. Good morning, everyone. My wife Michelle Arden and I are the owners of 405 Lincoln.

Before we continue, I would just like to confirm that you have the material that’s new that we provided for you for this meeting. That should include our comments on our responses to the comments on the EIR, and also the excerpts from Dr. Kirk’s analysis. So, if you have those two things, that certainly covers everything that we need to say, concerning the EIR.

If you’re ready to proceed, then I think the right thing to do is to ask Bob Peterson to give you a presentation on the house, and we’ll go from there, and I will be available for any questions you may have.

Chair Bower: Okay, that’s fine, thank you.

Bob Peterson, Project Architect: Hi, I’m Bob Peterson, Architect, in Palo Alto. I’m going to run through a quick outline concerning the replacement building. The things I want to touch on are the program/the process we’ve gone through and then the design of the building to have it compatible with the District.

I’ve been working with Allen and Michelle on this for quite a while. They are current residents of Palo Alto. They’ve lived here a long time. They want to stay here. They like the community. They have two small children, and they have two pairs of grandparents, and the building needs to accommodate this kind of intergenerational family. The grandparents are here for extended periods, over the year, and will continue to do that.
The process that we’ve been going through for several years now, early on we had some preliminary designs and it became clear that the only way to really get the things that I think needed to be done was to do a Review Process, periodically, as we’ve moved through it. So we did just that. We started with the bare piece of ground, and the program, and the requirements to try and make it be compatible, and in each phase we met with the Historic Consultant.

We made —usually, we had two or three schemes. We discussed them all, we got advice from the Historic Consultant, we made changes, we came back with alternatives, and we moved through that, repeatedly.

The first one was to look at the site, and the existing parameters. Now, the existing building is about —it’s right on the 20-foot setback on the front. Because of the contextual setback, this building is at 33 feet back. There is quite a difference there.

One of the things that we were aware of, and looked at initially, was the impact on the closest neighbor. This obviously pushed —the new structure would be well back from where the existing was, so that helped for privacy and light issues. However, the new structure is two stories and, even though the existing neighbor is two stories, this would have an impact on privacy and light.

We looked at that, and we’ve done a number of things to mitigate that, and the owners of the new building are as concerned about privacy and light as the existing ones. So that’s the sort of thing that there needs to be some dialogue there to make sure that we can satisfy both partners on that.

We took a look at the garage placement, and in this case, we moved the garage back in the rear yard, a long ways from the street, because we didn’t want to have a garage impact with doors facing the street. The new garage will not face the street at all. It’s back in the corner. It doesn’t make a big impact because it’s integrated into the building itself, so it’s a very quiet situation there.

The orientation is critical in the design of all buildings, and the south and southeast is the ideal orientation for outdoor living, and that was instrumental in how we lay out the house. In terms of privacy for the next door neighbor that works to their advantage, and that is the orientation is toward the south and the southeast, meaning that’s where the major glass is, the major views out, and so the orientation to the neighbor is really minor things, like some of the windows are to the closets and things like that.

Now, the other things that really played in our favor is the existing landscaping there is really significant. It’s been there a long time. The owners, the new owners, have every intention to maintain it and make it more lush, and we have the house placed so that we don’t have to interfere with any of that, so there will be a lot of screening from the street. So that is definitely an advantage.
When we looked at the design and the exterior elevations, one of the major things for compatibility is the relationship over the glass areas to the solid walls, and so we purposefully reduced the number and the size of the windows so that we could maintain a reasonable ratio there that is similar to what is in the neighborhood already. Now, the only downside to that is that it does impact the new house light and orientation—and the light inside the house.

What we have done to compensate for that is the use of skylights to dump light right in the middle there. With the low slope of the roofs, the skylights are almost invisible. Now, when you look at the elevations, you can see them, clearly, but if you stand on the sidewalk or in the car, the angle is so low that all you see is the edge of the skylight. So we’re able to add the skylights, get the light, and not have a major impact, and these are flat skylights, so they’re very inconspicuous.

There’s a traditional element. There’s a front porch to this new building. The entry is recessed there, so it’s very quiet, and it’s typical of the neighborhood.

The exterior materials, the walls are integral color stucco. It will be a warm stucco color and the two big elements on a house, really, are the exterior walls and the exterior roofs. The roof in this case is a zinc shingle, and if you haven’t seen zinc on a roof, it’s a very soft, warm color. It tends to mottle with time a little bit, a completely flat surface, and so the integral stucco color has that kind of aged look, a little bit mottled, and the roof has the same thing. The whole intent here was to design a house that was visually very quiet. We didn’t want to compete with any of the historic structures and, in general, we want the house to be a very quiet structure itself.

The windows are all dark green metal. They are set back to the back of the exterior walls, and these days (with insulation) all the walls are six inches, at least. It’s very subtle, but you do get a lot of shadow patterns from placing the windows deep into the wall, and that’s what we’re doing here. The windows, themselves, are all going to be glazed with a sloped glazing bead which we are not doing it to make it fake in any way, but that’s a standard glazing bead you can get, and it gives that subtle look of an older house and an older window.

Okay, well, I think that’s a quick summary. I’d be happy to answer any questions. One of the reasons we designed in this way, and this is an infill building in an existing neighborhood, and it obviously makes sense for a Historic District but, in fact, it makes sense for any infill building in a residential area. So, if you have any questions, I’d be happy to answer them.

Board Member Bernstein: I’ve got a couple of questions, and it includes question to the Staff. This, I think it might be appropriate. When the Staff is ready, I’ll ask those questions too. Great, and I’ll wait until they’re done.

I’ve got a question for Staff, and then perhaps the Applicant can respond. First of all, and Bob I think the most significant comment you made is talking about process, and Review
Process. First of all, and for the Staff, I understand there is a preliminary Review Process that an applicant can come to the HRB, very preliminarily, correct? Is there a fee for that Review Process? If it’s voluntary, I mean, just –

Ms. Caporgno: There isn’t any fee for a preliminary review with the HRB. There isn’t any Staff time in involved, but the project would be brought to you without any evaluation by Staff.

Boardmember Bernstein: I understand, and then for that review there is no requirement for an EIR for that preliminary review?

Ms. Caporgno: That’s true.

Boardmember Bernstein: And there’s no requirement for any historic value – in other words, there is no fee required. The Applicant can just come before us for the preliminary comments, non-binding comments from the HRB.

Ms. Caporgno: That’s correct. I think what – just to clarify. I know that the Board has always, or recently, has been very encouraging of Applicants bringing forward projects for preliminary review. I think in this particular case, one of the problems was that it – because it was going to be a new structure in the Professorville District, and the EIR was involved, and we were having an historic evaluation done by the Historic Consultant, the Applicant was designing this around the guidelines that had been established by the Historic Consultant to meet the compatibility determination for Professorville. And so I think that’s the difference between what you review when an addition is designed and it comes to you early on for your feedback before it’s completed.

Boardmember Bernstein: Thank you, Julie. Bob, you mentioned, early on, and it’s been what, two or three years ago that you started the review process?

Mr. Peterson: Correct.

Boardmember Bernstein: Is there any record, and this goes to the Staff and you, is there any record that there was any review by any preliminary designs to the HRB? Is there any record of that?

Ms. Caporgno: I’m sorry, if you could repeat it please.

Boardmember Bernstein: Is there any record, during the two to three past years, has there been any record of any plans at all coming to the HRB?

Ms. Caporgno: There haven’t been any. You have not seen these plans previously, or any plans regarding this project.

Boardmember Bernstein: So, Bob, you mentioned several review processes of talking to different people. There’s a no-fee review three years ago that could have happened at
HRB. Can you explain if/why we didn’t –we just saw these plans four weeks ago? Any comment on HRB review very early on to get our comments too?

Mr. Peterson: Well, it was clear, made clear to us, the Staff made clear to us that we were going to have to go through the EIR process, and we wanted to be able to really have an ongoing cooperative arrangement here from an Historic Consultant who would help us craft a building that would be acceptable and successful in this District. That means that we wanted help from the very beginning.

As I say, we started with the Site Plan. We had three our four meetings there. Then we went on to Design and Materials, so there were many, many meetings over a long time.

Boardmember Bernstein: And if all of those meetings, at any time, you said there was a cooperative effort. So the HRB hasn’t seen these plans.

Mr. Peterson: With the Historic Consultant.

Boardmember Bernstein: Right, and the Historic District Consultant, I don’t think they’ve consulted with the HRB. So where is the feedback from the HRB, is my point. Those are my questions, yeah.

Mr. Peterson: Just a brief historical note. We actually scheduled an HRB hearing for the original plan and had to cancel because the Consultant rejected the original set of plans. So you actually –if things had gone according to schedule, you actually would have seen the original set of plans in 2008, but because those plans were rejected, the process changed.

Boardmember Kohler: I have to comment. I’m sitting here getting really frustrated. We have the final approval of this project, and so to avoid us, Staff, you should have said something. The consulting historic architect is a consultant. He doesn’t have the final say. Through the IR process, I’ve had to work with him two or three times, and I’ve rejected several of his comments and said that they just aren’t correct, and he said okay. So, to have us suddenly be put at the end of everything, the huge amount of pressure to approve everything here because it has taken so long, I’m finding very upsetting, that suddenly we’re the bad guys if we don’t approve this today because it’s taken everyone so long.

So it’s I don’t know what to say. I mean, I’m having a hard time because, number one, Staff should have said, well, we have the Consultant and we have HRB. We should do them both together and get this resolved, way ahead of time. And you have Arnold, you know, the outside individual review person. You know, I’ve worked 60 new homes with him, so I know him very quite well, and he’s also flexible and adjustable.

So there were three people that should have been working together (the consultant, Arnold and us) and we’ve been left out. So I’m not sure what I’m going to do today.
Ms. Caporgno: Can I respond to that? I think that, because this process differed in the sense of the Environmental Impact Report and the identification of adequate mitigation, obviously, the Board can look at the evaluation that was done in the EIR, and if you don’t concur with the evaluation, that’s your prerogative. You can identify what is a problem, but I think that we needed an objective outside consultant to look at the Replacement Structure and provide the direction.

Boardmember Kohler: No, that’s not correct. It should have been happening all at the same time. You don’t hire the outside IR without getting input from us, because we’re the Board that’s supposed to recommend this Approval. I know the Council has the final say, but to leave us out of this whole loop, spend all that money, and all that time, and then say here it all is, you know, it’s a big package, please approve it.

It’s just a huge mistake, and when I do an IR review, I meet with Arnold right up front, and I say, what do you think, and the Staff, you and the other staff members, and we work out together so we know ahead.

We were just left out of this whole loop, and I’m not—I feel very sad for the homeowners to have gone through all this. This whole thing should have taken less than a year, and now what is it, three years?

Mr. Peterson: Could I add something to that? Our intent was to try and craft a building that—and bring a building that was worthy of your looking at it. So, in no way, were we trying to circumvent the HRB.

Boardmember Kohler: I’m not blaming you at all. I’m just saying, somewhere along the line, considering that we’re the Board that has to go through and look at all this, somewhere along the line, someone ought to have said, well, you ought to run it through HRB and see what they think, and now we’re sort of sitting here. I feel like I’m under a huge pressure to approve this because of all of the bad things that have happened, and I’m just not happy about that.

Boardmember Makinen: Thank you, Chair Bower, just a couple of things. I missed the earlier presentation, but I did read through the entire Minutes, 23 pages of them in detail.

Just a recap here, it is my understanding that the EIR will not be—the Final EIR will not come out until October 15th?

Chair Bower: I could answer that. I think, if understood Julie correctly it can’t come out later than ten days before the Council actually reviews it, is that right?

Ms. Caporgno: I apologize to all of you because I wear hearing aids and I—in my haste to get over here this morning, I forgot to put them on, so that’s why I keep asking if you can repeat.

The EIR, the Final EIR, will be available on October 15th.
Boardmember Makinen: Okay, and the EIR now was in the process of incorporating comments from the public, is that my understanding?

Ms. Caporgno: Yes, the Final EIR will address, or respond, to all the comments that were made at the Public Hearing that was held here on September 1st, as well as any letters that we’ve received on the EIR to date.

Boardmember Makinen: Are we being asked to approve the preliminary EIR today?

Mr. Baum: The HRB is being asked to give a recommendation to the Council on the Draft EIR. That’s how the system under CEQA works. It’s a little unusual for this committee/Board because we haven’t had an EIR come before you like this for a single residential structure, but the way the system works is, if this was the Planning Commission, the Planning Commission would get the Draft EIR, the Council gets the Final EIR and does the final approval of that, but the Advisory Commissions get the Draft versions, and then they are allowed to make comments, encouraged to make comments, as are the public.

Boardmember Makinen: Well, I guess the crux of my question is, why are we having this meeting today when the Final EIR is due out in a matter of about ten, nine days? We could have the opportunity to look at the final document, with all the additions that would be put into it, reflecting the public comment. I just don’t get it.

Mr. Baum: You would have heard all of those comments, as well as vast majority of the responses, but the CEQA process works like that, and that’s the way it works statutorily, that’s the way the guidelines work and that’s the way it works across the State. This isn’t a Palo Alto setup. Every Planning Commission reviews Draft EIRs to the extent that this committee does. They’re going to review the Draft, and then the Council actually gets a Final Draft, and then they’ll get a Final version, and so that’s the way the process works.

You’re being asked to make comments on the EIR and recommendations on that EIR and those will be considered by the Council.

Chair Bower: If I can make a suggestion to the Boardmembers. I think we all share a frustration in the process, but let’s –this is ultimately the Council’s decision, and so let’s provide them with our guidance in how we would –how we evaluate this project. They’re going to make the final decision, and I think we’re all frustrated by the EIR process. It doesn’t –this seems backwards to me as well, and so I think that we’ll –let’s finish the discussion of these two issues, and then let’s make Motions that direct the Council to take the Actions that we would like to see them take. Is that reasonable?

Pat, did you want to make any comments about it at this point?

Boardmember DiCicco: I feel very frustrated about it as well. I mean, I think everyone on this Board –and empathetic for the owners. I mean, it’s gone on for three years and as
Roger said, we—you feel like we’re under pressure to decide today whether this building is compatible, and I would have a lot of difficulty making that decision myself.

Boardmember Makinen: One final comment, in addition to what I’ve previously stated. We’ve got at least three our four additional pieces of paper here that were presented this morning, before we even had a chance to look at them and review them. I think that’s unacceptable to present them at the moment that we’re at the meeting here.

Chair Bower: It is frustrating to incorporate that into our work, but I’m assuming that Staff actually got those, and as I see from one of them, it’s got a September 9th date on it, so I don’t know why that wasn’t in our packet, but maybe they just came in recently, last night or something. One of them has a date of October 5th, and so there’s not much opportunity for that to get to us sooner.

I would also like to say that, in the last meeting, I did not have the EIR report to review. Staff has assured me that it was delivered to my house, and I suspect it was, and so it wasn’t Staff’s problem, it was my—turbulence in my house that probably lost that document, but—yeah, the dog ate it. I don’t have a dog.

Anyway, so I didn’t—I was frustrated because that was a difficult position to be in trying to run a meeting when I didn’t have documentation, but it wasn’t the Staff’s problem, it was mine.

Anyway, let’s move—I had a couple of questions for Bob about the project. These are—on the north side of the proposed building there is an eight-foot setback. Is that the setback for that area of Palo Alto?

Mr. Peterson: Yes, it is.

Chair Bower: Okay, it’s eight feet and not six feet.

Mr. Peterson: Correct.

Chair Bower: So, in looking at the plans, it looks like we have some significant stucco texture, but I can’t quite figure it out. Did you—in our last meeting, we had asked for some sample boards that would show us textures and stuff. Did we get that?

Mr. Peterson: Yes, it was delivered to the City.

Chair Bower: Okay, it looks like—I mean, this is your stucco?

Mr. Peterson: That’s correct.

Chair Bower: And so it’s going to be smooth, I mean effectively this is like a smooth surface.
Mr. Peterson: It would be a sand texture. It’s actually a sand, like a sand dash, so it is not troweled.

Chair Bower: I’m interested in the selection of the zinc shingles. You know, when I was driving, and I was up over in the neighborhood yesterday looking at the houses surrounding this property, and there’s a significant red tile roof motif there. How does/is this compatible? How is a zinc shingle compatible with the sort of surrounding buildings?

Mr. Peterson: Well, what we felt, and the Historic Architect also felt, we’re not trying to simulate any particular style here. We just want something that has some of the character, and zinc is one of those materials that does look a little—it’s very subtle, but it’s a little splotchy, so it looks aged, and so it’s an ideal material for that, and that’s why we wanted integral color stucco. It has the same sense of an aged material, so the house doesn’t come on as new and bright and out there. It’s very quiet and settles back. So it’s a lightweight material, it’s fireproof, long-lasting, and it has those qualities, much of them like tile except tile is not lightweight and it has a particular character to it. This District has all kinds of different buildings, obviously.

Chair Bower: There is substantial landscaping screening right now, and as a contractor I look at the project and I look at the screening and wonder how that survives, and then that leads me to think about how this house would appear if it didn’t have this screening. I mean, of course, it could come back.

In your picture, on page 1-A, from the Waverly Street perspective, half of the house is exposed, and that is the side of the house that has that ten-foot hedge. I imagine—I mean, it’s the intent to try and save as much of that as possible, is that correct?

Mr. Peterson: Absolutely, and to enhance it. As you can see, on that one view in the photo montage, you see the City’s electrical boxes out there. Unfortunately, they’re in the right-of-way, so we can’t hide them, but the hedge is going to come around and completely screen the house there.

Chair Bower: Right, and on page 2-A, when you are viewing the house from the Lincoln Street side, it’s actually totally obscured, the first floor. I guess my question here is, when I imagine and look at the elevations of the house without landscaping, the roofline has considerable sort of cut up quality to it. One of the EIR comments from the Consultants was that those be smoothed out and eliminated, or at least modified so that there was less of a choppy look. I know this is a revision from what we saw last, to some extent, but I don’t see much of that.

Mr. Peterson: Well, we really have been working on that, and we’ve simplified it quite a bit from where/when he did his last comments on that, and we’re highly motivated (for energy reasons) to protect the glass and heat gain with the windows and that seems like the most integrative way to do that.
Chair Bower: Right, no, I'm having —oh, you're talking about having overhangs and reducing the distance between the top of the windows and the roof by having the roof at different levels to meet the window, is that what you're talking about?

Mr. Peterson: Well, there's a trade-off. I mean, we're trying to keep that as simple as possible and it is a reflection of the plan itself, obviously.

Chair Bower: Right, I don't actually see that the roof is simple, and I may be looking at it as a contractor and not as an architect, but that's not a simple roof, so.

Mr. Peterson: Well, I have to tell you, my father-in-law who was a contractor, said the only building to build is a square building. The fewer corners you have, the better off you are. So we are somewhere between that.

Chair Bower: I'm not in that school of thought, but anybody? Thank you, that's all the questions I have. Anybody else have any questions for the Applicant?

Chair Kohler: Just a modest technical question. The media room in the basement doesn't really have natural light except from the stairwell, is that — are you going to get that for the Code? It says that the media room/rec room, down at the bottom of the stairs, there's not real —

Mr. Peterson: It has light coming down through the stairwell itself.

Boardmember Kohler: Good luck. That's a —

Mr. Peterson: Well, fortunately, a media room —

Boardmember Kohler: But as long as it's got habitable space and things like that, it's going to have to have natural light, and whether or not this current regime in the building department will allow you to do that, I just think —

Mr. Peterson: Yeah, we will meet those light requirements.

Boardmember Kohler: Otherwise, you have to take it all out and —

Mr. Peterson: We're really constrained there by getting light wells. You're not allowed to have them in the front setback.

Boardmember Kohler: I guess the last thing I have is to follow up on the roof materials, as well. I mean, the house is not a very simple-looking home. It's got a lot of things going on, and then the fact that the zinc roof, which is how many houses in Palo Alto have that? I would guess five, ten —

Mr. Peterson: There's not many, but it is a really quiet soft material.
Boardmember Kohler: It’s a great roof, but I just—when I look at the pictures you’ve provided, almost all the homes around you are all tile. The house that you’re tearing down is tile, and now we’re putting in a roof—a house that is very modern, and then the roof is also very unusual. So I think if—I don’t know what to say, but I just—if the house was a tile roof, it would probably blend right in and no one would even know it was a new home, but once it’s got that roof on there, it’s kind of a signal that this is a new home, and I think we’ll have to talk about, with the Board here, I’m not quite sure how we were supposed to have approached this.

Mr. Peterson: Well, let me make another comment about that. The character that the zinc gives is very much like a shingled roof. It turns almost like the same color. It’s very simple. It is a triangular-shaped fairly large shingle, and it’s traditional of course all over Europe and many older cities.

Chair Bower: So it looks something like slate?

Mr. Peterson: Yes, that’s right.

Boardmember Kohler: I was thinking of a different zinc roof. That helps a little bit, yeah, thanks.

Chair Bower: Pat, any comments? Not required.

Boardmember DiCicco: My comment, again, I guess would be more of confusion. On that Board that we just saw, is that actually a piece of the zinc?

Mr. Peterson: That’s correct.

Boardmember DiCicco: Only, you say it’s a large—what’s large?

Mr. Peterson: They’re about 18 inches square, the shingles.

Boardmember DiCicco: And they weather into a different color? That is the color it’s going to be.

Mr. Peterson: No, they—that is the natural color of zinc and it does tend to take a little bit of mottling over years, but it won’t change significantly from what you see there. It’s fairly uniform color now, but with rain and other things it becomes slightly mottled.

Boardmember DiCicco: Well, my only other comment is that it, to me, all of the colors on the building and the roof appear to be quite in contrast with a lot of the existing buildings in Professorville, as you have said, and also the roof is a different material. And, absent mature landscaping, the building would really stand out as not exactly contributing to Professorville.
Mr. Peterson: Well, I think the texture and color of the stucco really will be very soft and noncompetitive to anything around. You can look at the photo montages to see there are salmon-colored, and white and yellow and all many — and then there’s painted shingles just a couple of houses away, so there’s a terrific variety down there now. We’re trying to kind of fit in with all of those.

Chair Bower: And of course we’re looking at all these colors and then ten years — it will be less than ten years if you’re using integral color and you don’t paint that stucco because then —

Mr. Peterson: You never have to paint it.

Chair Bower: Well, you know, you and I have worked in this business a long time. I’ve seen a lot of houses around Palo Alto that started out integral color and then ended up growing moss on them because the stucco doesn’t shed the water; it absorbs it, but you could — nonetheless, you can still paint it, and it could be a salmon building.

Mr. Peterson: You could paint it. My own house is 20 years old, integral color is just like it was in the beginning, slightly mottled, but —

Chair Bower: No moss growing.

Mr. Peterson: No, fortunately.

Chair Bower: Okay, if there are no other comments, I think I’d like to move on to the next phase of this and hear from the public. There are five people who want to speak. Again, I’d like to limit comments to the Demolition Delay and the compatibility of the new building to the District.

PUBLIC COMMENT

Ms. Nancy Clark: My name is Nancy Clark. I live at 225 Addison, and that’s in Professorville. First of all, I’d like to thank you for your services here today and what you’re doing for the community. It’s appreciated. I just want to state my support for the project. I don’t — I walk by that house on 405 Lincoln almost every day, sometimes twice with my dog. I don’t think that the existing structure adds anything to the neighborhood. I’m fully in support of these people, and I’m disappointed about the amount of time and money they’ve had to spend for the project, as I am sure you all are as well. With that, I appreciate, again, paying close attention to the details and the lack of historical significance for the current home. Thank you.

Mr. Jason Trindade: Jason Trindade from 409 Lincoln, and like you, I am very frustrated with the process that’s going on here. I feel that we were hit late in the situation with our ability to make any suggestions on what was going to happen. Now, I think this is being viewed in a vacuum, and as Julie has stated, there has only been one demolition in the main area since 1993. So this is a big deal. It sets a large precedent and the precedent
that's being set here really needs to be understood in terms of, first, removing a single-story house and replacing it with a multi-story house. This is an historic district, but that is one of the issues.

Secondly, it’s that if you can demolish in an area where everybody else had to pay a lot of money and go through Planning and not even be able to move their driveway, you’re applying the wrong standard. And so the standard which used to apply to, say, a modification, me coming up here and saying may I move the front of my house forward three feet, has been thrown away. So the precedent set by a demolition decision here really has far-reaching and negative impacts to any preservation attempts in this District.

I mean, you're not talking about a single thing on the secondary overlay. You're talking about a property that was in the initial historic circuit, a property that was then confirmed within the secondary overlay. So, you know, I’m really disappointed about the way that this procedure has gone. We have some/our concerns as neighbors because we live right next door. You know we bought the house, it’s in a Historic District, and we had to go by the rules that everyone else had to follow. We paid hundreds of thousands of dollars in doing our roof. As we have heard, roofing is a big topic here. We had to put the same tiles right back on. We rebuilt our chimney, saved all the bricks, reused everything that we could, and our house was built by the same architect as their house was built by. So to change the rules and make it so that you can demolish a house, but you can’t modify a house, because that’s what the decision here for demolition would do, it seems very, very erroneous to me.

I have a question here. It seems that the idea that the Demolition Delay be shortened is being represented in terms of credit for time served. We all sympathize that this has taken a long time, but as the Council has stated before, they weren’t approached in the beginning about this, and the sign in front of the property, it says Contact Kathy Morris. It’s the same one that’s been there for three years. It hasn’t—or two years. It hasn’t changed. It never says when there’s a meeting. You know, the members of the public walk by, and that’s what they see.

So, you know, I think that we need to accept the fact that Demolition Delays occur and exist so that when there’s an error, or when there is a procedural issue that should have been raised and was not raised, it may be raised appropriately in court before the house is gone. Our consideration here is that the house should be able to be rebuilt on the spot. If you take away, and you can’t rebuild it, and as architects you know pretty well that, hey, look at the interior. It’s not made out of sheetrock; it’s lath and plaster. Look at the exterior, you know. It’s not going to be rebuilt with old wood. It’s not the same type of building.

This just —accept (if we’re going to do this) that, first, that house being more historically relevant than our house, and replacement of it causing a significant impact in both our property value because we have a private backyard, a private swimming pool. Now, having windows over it, that’s unacceptable to us. You know, necessitates in our replacement of our structure. We have to make significant modifications to our home,
which is historic, and there’s really no way that we can come up here and say, oh, well, we’ll accept the no modification judgment here because we’d just have to point at that house. Look, you knocked it down. It was more historic than ours. Look, it was built by the same architect, and then you know we have an –I mean, lots of people here are multiple homeowners, you know, some people at Eichlers, and we could extend this, have areas where they don’t permit a building next to it or you know it’s never allowed.

Well, hey, look, you took one of the historic buildings, obviously 20 years older, it’s not a tract home, you knocked it down. Where there was a single-story home, you built a two-story home. There doesn’t seem to be a side view from our property to that property, and I’d really like to see that. You know, it doesn’t show how the windows affect ours and how our property affects that property. You know windows in a closet. A closet doesn’t need windows. A room that you dwell in needs windows, and it needs light, not necessarily windows. There’re things that could be addressed by light wells, which haven’t been addressed.

I have no desire to see this procedure go on longer and longer, but I think it should have been stopped in the beginning, and if it wasn’t stopped in the beginning, then it should have been looked at in terms of something which mitigates the impact on the environment around it, and when you look at what’s going to happen, and it’s unfortunate that this is a single-story structure here, because if it wasn’t it would change the entire dialogue.

You wouldn’t set a precedent which would make it so that the alterations and the significant materials impacts to the neighboring houses would be available as a reason or justification for anybody coming before you to say we get to do what we want, but that’s really what will happen here. I mean, what’s the relevance of Historic Review when you’ve gone and taken one of the more historic homes, on a block where other people who have just secondary overlay homes and not contributing structures, and are subjects to guidelines for modifications, and say hey it’s gone, it’s demolished.

Chair Bower: You’re over five minutes; can you summarize for us?

Mr. Trindade: I am –okay, it’s my opinion that the precedent that would be set by this, and the direct impacts on our home, are such that they are too broad-reaching to be permissible, that this Board and the governing body of the City have been placed here with our trust, and we have paid taxes to do/for Historic Preservation. We pay hundreds of thousands of dollars for it. The wrong standard of scrutiny has been applied to this project. This should have been scrutinized and the only substantial issue is demolition here. It really should have not gone through this EIR process. It should have been, can we demolish this house? What happens if we demolish this house? And what happens to the District? I think that making anything other than a No Demolition move, at this point in time due to the procedure, is erroneous. So I really would think that, if you consider a Demolition Delay, you have to understand the legal ramifications of this, meaning that you can’t give credit for time served. That’s unacceptable. Thank you.
Chair Bower: I neglected to say earlier, there is a five-minute limit so we can get through. We have several people here today so we’ll impose that.

Ms. Carmo Trindade: I’m Carmo Trindade, and I don’t think you need worry; I have only two minutes, or three minutes, so I think you will be pleased with that. I have two points. Number one is, I think there is frustration from all of you here that I’ve seen, and a whole lot of other people, with the process but you just kicked the ball down the road.

You see, that’s the point of what’s happening most of the time. As I forget, one of you said here that there should have been consultation with the Historic Resource Board all through, and then the excuse that they waited three years, but that’s not your fault, and that’s not my fault, the neighbors. The fault is that, in fact, you don’t go and look for a house in a historic neighborhood and don’t expect any delay any expenditure to be undertaken because when you hear—I see that somehow made it the victim, and you see it that we have spent $500,000, or whatever, to date. Well, I’ve spent far more than that in trying to keep it the historic portion of that and, doubtless, most of my neighbors have done so.

Now, the other point that I may want to make is that we talked last time, just the last meeting about interaction with the neighborhood. My then neighbor next door, one said that they hadn’t been approached at all and talked with and we, ourselves, were approached about a year after the house was bought, with the intention to demolish it. I mean, this is not just—and you were not the only ones that—you are not the only ones who were not informed over the three-year period.

We were not informed for 1-1/2 years, and the only people it seems were informed were the Staff and the Applicants and the Applicant, and when we went to see the things, many things were not available. So I don’t think this process has been done at all well, even though it maybe the first time, as Julie said, the first time that this has happened because of this thing. It doesn’t matter damn, first time.

We should not suffer because that is the first time that the City has got this thing here. I think the job of the Historic Resources Board is not to worry about mitigations that may be there, because they think that there is a three-year delay or the $500,000 output on this type of thing. I don’t think this is the thing that could be considered at all. I think what one has to consider is, is this historic house that has been put in the Register, and does it fit in or whatever else that it is that we put there? Fit in with the rest of the aesthetic part of that neighborhood? You walk in and you see a whole corner which is the same type of construction, and you’re going to see a very different thing in that corner. That’s my point that I think the aesthetics are going to be affected.

And, all the more, the City has to make a decision, are they going to have historic neighborhoods, or not? Because if you are going to have an historic neighborhood, then you don’t destroy it because I can assure you, if 405 is demolished, I will want a permit the next year or the year after to change my house completely. And there will be nothing to stand on that you can’t do this because that house is far more—the 405 is far more
historic than mine. It was in the primary district. So I just want to point out that the City and the Historic Board, you all have to make a decision. You can’t kick the ball down the road and say the Council will decide.

What is your decision for the Council? Otherwise why would you need a vote of the Historic Resources Board? You don’t need it. Forget it. Just go straight to the Council. I mean, I heard the frustration from you, and you and you. Everybody here, that I see the frustration, but no decision is made. You don’t say that we are a Historic Resource Board, this is what our decision is. I’m expecting that you will do that. Thank you very much.

Ms. Grace Hinton: Good morning. I’m Grace Hinton representing Palo Alto Stanford Heritage. We sent a letter to Claire Campbell on September the 9th, which is the day that the Public Comments period closed. So this should have been in your packet, but I don’t believe it was. Because you haven’t had time to read it, I’d like to use my five minutes to read this letter.

This is regarding the Environmental Impact Report for 405 Lincoln Avenue. This is signed by our President, Scott Smithwick, but he is not here today.

Dear Claire:

On behalf of PAST Heritage, I’m writing to comment on the Environmental Impact Report for 405 Lincoln. The EIR finds that “the proposed demolition of the structure does not equate to the demolition of the District and will not materially alter in an adverse manner those characteristics that justify the District’s inclusion in the National Register of Historic Places, California Register of Historic Resources or City of Palo Alto Resources Inventory,” and this is the EIR, Section 4.3.5, Impacts and Mitigations, Impact 4.1.

The EIR justifies this finding by citing Valley Advocates versus the City of Fresno, and this is a quote, “The Court of Appeals has also found that just because a building is identified in a Historic District, it is not a mandatory Historical Resource for purposes of CEQA.” However, the EIR doesn’t seem to follow through with the Court of Appeals Decision in this case.

The question seems to be whether the determination of the significance of the resource is mandatory, presumptive or discretionary. In their 2008 Land Use Alert, titled CEQA Lead Agency has discretion to determine whether a building is a significant Historic Resource, the attorneys, Barbara Schussman and Stephen Kostka, report the following, “The Court of Appeal ruled that when the Fresno City Council decided the project was exempt, it was misinformed as to the discretion it had to find the building was a significant Historic Resource. The Court then explained how the initial determination, whether a resource is a significant Historical Resource, should be made depending on which of the following three categories applies. Mandatory: A lead agency must find a resource is a significant Historical Resource if it has been listed on, or determined
eligible for, listing on the California Register of Historic Resources. The Court explained that it is only an official determination by the State Historical Resources Commission that triggers this mandatory determination.

The second category is Presumptive: A lead agency must presume a resource is a significant Historical Resource if it has been listed on a local register or included in a local survey that meets specified criteria unless the preponderance of evidence demonstrates otherwise.

Discretionary: A lead agency may determine that a resource is a significant Historical Resource if it does not fit within the mandatory or presumptive categories as long as the determination is supported by substantial evidence in the record. When such a determination is made, the criteria to be applied are the criteria for listing on the California Register of Historical Resources.”

This EIR implies that his resource falls into the discretionary category. We would argue that it falls into the presumptive category due to its listing an Historic Inventory as a contributing building. The letter P on its listing sheet denotes its status as contributing to Professorville. It is a “significant building according to Palo Alto Municipal Ordinance Section 16.49 under definition of significance. “Significant building means any building, group of buildings or site categorized on an Historic Inventory as number one or number two and all structures within Historic Districts.” This is Ordinance 37.21.1986, thus the Ordinance, itself, the Ordinance, I might point out of a certified local government has recognized for over 25 years, the significance of structures within Historic Districts.

The house, itself, has been recognized as a contributing structure to the District for 30 years. Some of have argued that 405 Lincoln sits at the edge of the District and is therefore expendable. However, the original District, as defined by Beech & Begozian, of Historical and Environmental Consultants, in 1980, and using methodologies approved by the City and State, deliberately included this structure. It maintains its integrity and contributes to the unity of the Historic District itself. The foundation of an Historic District is the system of relationships among contributing buildings, grand and not so grand.

We believe that the premise of this EIR was incorrect. That is to say that it focused not on the impacts of demolition to the Historic Resource and the Historic District it belongs to, but rather on the compatibility of the replacement house. As was mentioned several times during the Public Comments at the September 1st, 2010 HRB meeting, the question of how many contributing structures can be demolished without compromising the integrity of the District as a whole was never answered in this EIR.

We believe that the next step in this process requires a reformulation of the EIR to include impacts that the proposed demolition has on the District itself. Failing that, we believe that the demolition of this resource requires a Statement of Overriding Considerations by the City Council to provide the public with specific reasons why the benefit of this proposed project outweighs the adverse effects.
We would also like to register protest that the Public Comment period on the EIR does not extend to the Public Hearing in which the EIR would be discussed."

This is signed, "Sincerely Yours, Scott Smithwick, President, PAST Heritage."

Chair Bower: Thank you, Grace. I appreciate you reading that since we didn’t have time to read it ourselves.

Ms. Beth Bunnenberg: Beth Bunnenberg, 2351 Ramona Street, Palo Alto, and I’m speaking today as an individual. In your consideration of the Demolition Delay for 405 Lincoln, there are two remaining central questions that have come up during discussion. Please remember that the Applicant and the City have been working on this for a very long time, but the public did not have a clue about the facts that were to be presented in the DEIR until a little over a month ago.

The first question emerging is, is this house historic? And I would again call attention to the Municipal Code, Historic Preservation Chapter, 16.49. Very important language exists there about Historic Districts, and the definitions section which is .020C, the statement included is, "The collective value of an Historic District taken together may be greater than the value of each individual building," and then as stated previously, "All structures cited within the Historic District are categorized as significant on the inventory."

And, again, the other definition is of significant building, which means a building or site categorized as one or two, and all historic structures within the Historic District. This certainly sounds like it applies to 405 Lincoln. The City Council needs to be informed of these provisions and I would again remind you that demolition is a very final act. Demolition can not be mitigated.

The second question is, what would be the impact on Professorville National Historic Register District of one or more demolitions? This moves into that area of cumulative impacts. There are cumulative impacts that have been going for years. Thank you, Julie, for the report on some of the figures, but just to call attention to a few more things. In the Dames & Moore Study Phase 2, 1999, there were 200 listed addresses, 50 were noncontributing.

Looking at those noncontributors, there were nine (9) demolitions producing eight (8) new houses, and one went for a garden. One (1) house was lost by fire. We’re painfully aware that that becomes a possibility. Seven (7) houses that were built in the early 1990s lost integrity and became noncontributors. There were 13 new houses built on shared or subdivided lots. So 30 noncontributors were created during that period, from 1978 to 1999. We don’t have statistics from 1999 to 2010 in terms of how many houses have lost integrity over this period of time, through demolition, loss of integrity, natural disasters. We don’t have full information there.
Therefore, in view of the need to reevaluate and properly apply the definitions of the Municipal Code 16.49.020, showing that all structures in a District are significant, and we need a survey of the impacts of Professorville demolition, loss of integrity and so forth. Therefore, I respectfully request that the HRB recommend to the Council the 60-day or more Demolition Delay as provided in our Ordinance, but the Council needs and deserves full information on these complex issues. Thank you.

Ms. Barbara Wallace: Good morning, Barbara Wallace, 356 Lincoln. I appreciated very much that thorough investigation of the Municipal Code. That's something I don't haven't had access to or haven't taken the trouble to find out and, although I know your powers are advisory and limited to persuasion basically, I hope you will consider rejecting the Staff recommendation to advise no further delay in the demolition process.

We know, it's true, it's been lengthy, and it's been more than a little inconvenient to the public, the City, the Staff, the HRB and of course the owners who expected little difficulty in obtaining a demolition permit. There is pressure to accept the Staff recommendation. It's written there in the recommendation, but I'd like to point out inadequacies in the DEIR which I believe incorrectly minimizes the loss to the District of this contributing structure and since my comments, too, from September 17th (the last day of the extended period) were apparently not in your packet.

I was told they were not. They were sent to the Planning Department that day. I feel somewhat justified in referring back to the DEIR. The DEIR claims that the loss would not represent a significant irreversible environmental change, yet the National Register considers the District to be a unified entity. I don’t see how removing a contributing building can be anything but a significant irreversible environmental change. You may wish to consider that.

The DEIR dismisses the effect of cumulative impacts on the District when it indicates that, because there are no concurrent applications for development or demolition, the CEQA definition of cumulative impacts doesn’t apply. That definition refers to two or more individually effect, which when considered together are considerable, or which compound or increase other impacts.

Now, I ask you to consider that, though the demolitions in the District, have been spaced out, in the immediate area in the early to mid 1990s, the houses at 1110 Waverly and then 1106 Bryant were demolitions and more recently the house at 364 Kingsley, which is cited by Staff as a precedent for suspending the delay now at this point. These demolitions have had obvious and adverse effects on the integrity of the Historic District as it was originally described.

And I have one last point. As I read it, the house is deemed insignificant to the District, partly because it represents a later architectural style. We know that from the beginning of the University Park Subdivision that block, known as Shepherds Fields, that was the block bounded by Waverly, Lincoln, Cowper, Addison, and it remained undeveloped, at least partly because the owners hoped the City would acquire it for uses of park site, but
in 1919, or 1920, the voters rejected that idea, or at least they rejected the cost, which I think was somewhere between $10,000 and $14,000, and then in late 1920 the lots went on the market.

Robert Duryea bought more than one lot. His design of 405 Lincoln, in the newer style just beginning to be seen in Palo Alto, was known to influence the slightly later intact Spanish Eclectic houses on Waverly and Lincoln, of which the Trindade house is one. To diminish its importance to the District, because it varies from the houses of the generation earlier, seems to violate the notion of a District as a unified entity.

And one last thing that has puzzled me from the beginning. I read in the DEIR that the house had been advertised for sale to be relocated to a replacement site. I just would like to know where those advertisements were. I never saw them, and several neighbors whom I’ve spoken with, had no notion that was being done. I think that’s a significant omission from the general discussion. Thank you.

Ms. Joyce McClure: Hello, my name is Joyce McClure. I live at 1005 Bryant. I was also—I also gave comments at the last meeting and I know some of you were not here then. I know Roger wasn’t here, and I just want to remind you that there were a lot of people here from Professorville standing up in opposition to the demolition of this home. I have lived primarily in this District for about 35 years, and when I moved in and most people still believe that these homes are protected, and as the City Staff person has said, well, they’re not.

Anything can be demolished, and that’s what the Historic Resources Board, I feel by their name and by how they’re presented to the community, should be working to preserve this. As I have heard you talk about feeling sorry for the owners who have had to wait three years, I think you really need to be addressing and thinking about the Professorville community, people who live here, people who have spent hundreds and hundreds of thousands of dollars preserving their homes and I do believe that this home is a particularly poor example of a home that will erode the integrity of the District.

This is a beloved home. This has been owned, as I believe, by one family until this couple bought it, and it is especially beloved because of the family who lived there, because of it being hand-built by the owner, and because of the significance of the family in many, many ways who lived here.

I would really like to see this Board address what’s happening in Professorville, and I would like to see them make a recommendation to Council that we look into something that preserves these homes because, while they may have spent $300,000, my home will be eroded by much more if modern homes are put in there.

Now, I formerly lived at 329 Lincoln and was subjected to about 12 years of construction, and as one of the letters in the packet, I think of the next door neighbor, talks about the loss of privacy. I live next door to the Sun Bonnet House, and the same thing happened to me in that house. There were windows built. The entire orientation of
how they entered changed, and it completely destroyed my privacy there, and that and the Wing House, which also has had two or three years of construction—or, of course, I had the opportunity to buy a very historical house which I love, and I treasure, but most of the people in that neighborhood, it's very important to them that it be an Historic Neighborhood, and I don't see any reason why someone would come in and buy a home in an Historic Neighborhood and expect to be able to demolish it.

They said they've done research on the home and on the individuals. It is a treasured home, and I really feel that, as I've seen happen, these different precedents are taking place and people feel that if this happens that they'll be able to do it as well. Now, I know most of you are architects, or contractors, and I wish there were more preservationists on this Board, but people who have bought into that neighborhood and into expensive homes treasure it.

I just hope—my expectation is that this Board should be protecting and preserving this neighborhood. Thank you.

Chair Bower: Thank you for your comments, all of you. I think I'd like to close the Public Comment portion now. We have no more, no additional people who would like to speak. Would you like to make any final statements? The Applicant has an opportunity to respond. It's not required.

Mr. Akin: I don't know whether it makes sense to reopen so many of these issues that have been discussed previously on the EIR. I'll make a few brief comments, and mostly refer you to the material that you already have, which I think covers most of this ground already.

The comments from Grace considering the letter from Scott Smithwick, this is one of the areas where I know very well that I'm not qualified to respond and I have talked to our attorney about it, and Gary I presume you know what's being referred to there. So I defer to the experts on that question.

There is frequent use of the word “significant” and “historic” in many of these comments, and one of the things that I've learned the hard way throughout this entire process is that you have to approach these words with great care, that the level of significance is an important concept throughout CEQA and also throughout this process.

To say that—in many cases, to say that a resource is significant means only that you are required to go through the CEQA review process for a number of actions that might be performed on the resource. It's the job of the EIR to determine whether those actions actually have a significant adverse impact on either that structure as an individual resource or on the District.

It's not a simple matter, and I wish I could offer you clarity on that, but all I can do is just try and work through the process.
Let me see, what else is of importance here that hasn’t already been covered? Brief actual correction, we did not buy the house from the Duryea family. There were intermediate owners, so just a small factual correction there. And I think my wife points out that we should make it clear that we have been in touch with Eve Debonna’s daughters, for several years, so they are aware all of this is going on.

I think everything else has been covered, concerning the EIR, has been covered adequately in the other material that you have, so we won’t go into that further.

One other brief comment, Boardmember Kohler, you asked about Arnold Mammaella. Arnold was participating in the discussions with Bob Peterson and Michael Garavaglia and the other Staff members. So his comments have been noted at least several times during the process.

You know, we did talk about preliminary study sessions with the HRB, and I think the issue was that the EIR process was so new and so ill-defined at the time that it was unclear exactly when we could get you involved. Beyond that, I simply don’t know. I’d have to ask Staff what the reasoning was for each of the steps in the process.

As a final general comment, there are always going to be differences of opinion in matters this difficult, and those are driven not only by people’s values but also by our understanding of the facts of the situation and the facts of the law. Everyone, I believe, will agree that this is an unfortunate situation and we all wish that it had never played out this way, but what we have to resolve this kind of difficult question is the processes that are defined by the law and the policies of the City. Difficult as it is, we’re trying to work through those to a conclusion and all I can ask is that you help us do that, just to work through the process, and we’ll accept the outcome at the end.

If you have any further questions, I’ll be happy to answer. Thank you.

Chair Bower: Thank you for your contribution. All right, I think we’ll now close the Public Hearing on the Demolition Delay and the compatibility issues.

Roger was just asking me to have the Staff summarize what we’re supposed to do here, but I think I would like to try to formulate that, and then you can – the Staff can comment on it if I’ve missed something.

So we have three issues we need to address. We need to, as a Board, address the Draft Environmental Impact Report which is now finalized. We need to address the Demolition Delay issue, and we need to address the compatibility issue, and the Board in making Motions and Recommendations for the City Council to act on can add and embellish, maybe is not the right word, but upon all the documents and all of the comments that have been made before us today. Is that correct? I mean, is that basically the –
Mr. Baum: I would agree, fundamentally, the way you described it as there are the three pieces: the Draft EIR, the Demo Delay and the compatibility issue. The Draft EIR is still a Draft EIR. It’s not final. That’s why we’re looking for your guidance.

Chair Bower: Right, so it’s not complete. All right, so I guess this is the point when we, as Boardmembers, can discuss these three items. Let’s, and I don’t have a preference on how we approach them, but I suggest that we take them one at a time and make a recommendations to the City Council first about the EIR, then about the Demolition Delay and finally about the compatibility of the house. So, who would like to begin?

Boardmember Bernstein: On the DEIR, Draft Environmental Impact Report, just I assume then, is it correct then that the publics’ comments will be included then in the final EIR?

Mr. Wagstaff: That is correct, including some of the letters that were referenced in the comments today that were not in your packet. Apparently, the only letters that were included in your packet were letters that were directly addressed to the Board. All letters that were received within the Public Review Period on the Draft EIR will be included in the packet, including the ones that were mentioned today, with written responses to all of the comments therein, and also any associated changes to the EIR itself will be made to incorporate the information in those letters has been verified.

Boardmember Kohler: On the Draft EIR, I’m not sure what to say. I tried to read all of it. I’m not sure I got everything. I found on page 6-10, I think that’s the page, is that how it works? It’s in the middle, I think, almost in the middle. They aren’t numbered sequentially, I guess. It’s four—I guess they go by sections, so section 6, page 10.

It has a comment here that I’m not sure. I don’t know in context how this—it’s right in kind of the middle of page where there are architect drawings—no, it’s right after the drawings.

Yeah, okay, Item number—well, there’s a few things that I don’t quite understand. These statements—let me go back where 6 begins to—I was trying to understand—I guess we’re talking about alternative methodology and this is—these alternatives on section 6 were written out by the Draft EIR person, is that how this came about?

Okay. He’s talking about alternatives and—well, there’s—in the middle there it says section 6, which is about a little more than a third way through.

Mr. Wagstaff: Member Kohler, may I explain section 6 a little bit, give a little preface to your comments? Under CEQA one of the content requirements, the EIR content requirements, is to identify alternatives to the project that may or may not meet the project objectives, but will reduce and mitigate the impacts of the project.

The alternative that you’re referring to on that page is a so-called Replacement Design Alternative that, in cooperation with the EIR authors, the Applicant’s architect prepared a
replacement design that was formulated to the extent possible to meet the program objectives. It’s explained what objectives were met, what objectives could not be met with the replacement design and then this – then there is an evaluation of the comparative impacts of the replacement design.

So this is a design – this is an alternative that retains the current structure but modifies the existing structure to the extent possible to meet the program objectives, and some of the objectives are met, many of the objectives of the Applicant are not, with respect to space, family requirements and so forth.

Boardmember Kohler: Okay, well it’s – well, the first comment on that page says the expansion of the existing one-story main residential structure would be limited to the maximal allowable lot coverage available for the residential expansion as listed in total. That’s wrong, so that statement is not correct. The maximal allowable lot coverage for a one-story home is the maximum floor area allowed, so if you’re allowed 3600 square feet of floor area, you’re allowed to do 3600 square feet on a one-story house. That’s the change that came through the IR review and we’ve utilized that and there’s a home underway, and another one underway that is; I know that for a fact. So that’s a wrong statement.

It said the expansion – the maximums would be limited to the maximal amount of floor area expansion. That’s true. For this two-story expansion, you’re then limited to the maximum floor area. So the idea here was to encourage one-story homes versus two-story homes, so to encourage one-story homes they said, they said, let’s give – it was always a detriment. You went to two-story homes, you could get more square feet. So to create the encouragement to do one-story homes, they now a one-story home can do the maximal floor area. We have one on Kelly Way that’s about to start and another one on Carmel Drive which is going to go in for permit. Those are both one-story homes up to the maximum floor area. The one on Kelly Way has just been approved, so I know that for sure.

So this item number two is also true. Item number three, the Applicant’s architect has stated that construction of a new basement beneath and associated sizes may retrofit the existing resident would be very costly and therefore a conceptual outline of a new basement component under this alternative be limited primarily to the footprint of the new above-ground story.

Sure, it’s – it may or may not be more costly. There’s a house two blocks away at 1128 Webster. If you go by, it’s apparently (and depending on who you talk to) the oldest home in Palo Alto. It was moved from its original location around the corner. It’s now at 1128. If you go by it, it’s – well, for awhile it was just up on pillars and there’s a new basement being installed under it, and a new addition out the back.

So my thought, when I looked at the plan of the existing house was, and then the comment was made, you cannot do a basement under the courtyard. Well, technically, that’s true. If we did some porches there, you can do that, but considering this is an old
home, an historic home in an Historic District, if the owner had kept most of this house and did a basement under the entire home, my guess is that we could have gotten a Variance or a Home Improvement Exception to allow the basement to go under that courtyard to encourage keeping the structure and utilizing the basement for more square feet.

The other option would have been to allow you to do that and make some second floor additions and maybe not do the addition at the back. So I think it’s just outright dismissive as being too costly is not really true because there is a home at 2160 Bryant that had totally jacked up the home and went through Garavaglia review and it sold recently and the new owner is doing another addition out the back, so it’s—and we did one at 1052 Bryant, and we did one at—David and I did one at 1128 Emerson—29, that’s right, Emerson, and 1128 was an addition I did, and well I did the one at—well, anyway, never mind.

So it’s not uncommon. It’s becoming more common because more people are deciding that they like the look of the older home. So I sort of have to agree with these three comments but I’m just not sure that those are correct, on page 6-10, and they just aren’t based on reality and, in fact, some contractors will say that they think it’s less expensive because they do have to rework the older home, but in fact—and it’s more green. You’re reusing the wood, it’s being recycled. It’s one of the best ways to go.

Then it says, on Table 6, when the maximal allowable—the next floor’s loss gross of floor area expansion total based on existing zoning would be 1900 square feet, theoretical floor area, so I guess that’s right, if you added that up, plus the 1400 square foot basement. Well, that’s assuming you don’t do a basement under the old house, so that’s not exactly right either. The practical floor area expansion, so I don’t know. I just—so my feeling is, I think that the new home is, in general, probably not exactly very compatible. It’s—I think the roofing material is a big relatively large negative. If the new house had a tile roof it would blend in slightly more with the rest of the neighbors.

There’s a house at the corner of Seal and Cowper, which we did many years ago, and they imported used tile for the top row of tile, and many people think it’s a very old home. It’s not, and the house across the street is called the Box on the Box. That’s the—it looks like two storage units apartments stacked on top of each other, which was approved through the IR, but Arnold did not approve it and Staff has admitted that’s a big mistake, so things happen all over town.

As a Board, we are limited as to what we can do today. The Zoning Ordinance, and the Ordinance as set up, allows homes to be demolished in this neighborhood. I don’t agree with it, but that’s the way the rules are stated, and there is an up to a one-year delay in construction.

There’s a—since I’ve been on the Board, we’ve done three homes that I know of that were delayed a year and then torn down and rebuilt, and all of those you probably would not be able to tell they were new homes because they remain traditional style homes.
One is shingle and one is — anyway, so as a Board we’re somewhat limited by the Zoning Ordinances. We can’t arbitrarily change the Ordinances. I think the City Attorney would agree.

So I guess today’s decision is as to whether or not to impose — in this section, we’re talking about the EIR and then eventually — so eventually we have to — right now, the EIR — I didn’t. I tried to read all of it, but this — that one page was the ones I had objections to, so that’s all my comments on that.

Chair Bower: I’d like to — I’m sorry, would you like to make a comment.

Mr. Wagstaff: Yes, I just wanted to respond. I can only say that those data were prepared by professional architects and peer reviewed by professional architects, with respect to the arithmetic and so forth. I should point out that, regardless of those evaluations and whether the arithmetic is or is not accurate, the conclusion is that the replacement alternative is, under CEQA, the environmentally superior alternative. On page 6-20, that conclusion is made.

Boardmember Kohler: But if it is based on page 6-10, then I think it’s false.

Mr. Wagstaff: Well, it’s 6-20 states that although that alternative appears to be more costly from an environmental standpoint with respect to consistency with the Secretary of the Interior Standards, that replacement alternative is under CEQA, if you will, the environmentally preferable alternative.

Boardmember Kohler: The environmentally preferable alternative is to replace the home.

Mr. Wagstaff: No, the — is to — I’m sorry, the retention and expansion alternative is the environmentally superior alternative. So the one you were just looking at, and having issues with the details, regardless of the details that alternative has been identified in the EIR as the environmentally superior alternative, retention of this and expansion of the existing structure.

Boardmember Kohler: Well, I guess, I was just reacting to the page 6-10 where I —

Mr. Wagstaff: To the details, right.

Boardmember Kohler: Well, if those were corrected, it would reinforce their statement on 6-20 to more extent. I mean, it would be more ammunition to support that statement, would be my comment. I think that’s what I was trying to say. I didn’t say it very well, sorry.

Boardmember Makinen: Yes, I think reading the page 6-20, I believe it’s the understanding that I gain from reading that paragraph that the expansion or the retention
is the preferred alternative that has less impact upon the District, from the first paragraph on paragraph 6.4, the last sentence.

So it seems to state in the EIR that to keep this structure, not to go ahead with something, so if I’m interpreting that correct, it says don’t build an alternative if you want to have the least impact on the District. Is that what I’m reading?

Mr. Wagstaff: So under CEQA, the last phase of the CEQA compliance process is to prepare a Statement of Findings which goes with the ultimate action on the project. So that Statement of Findings, if the project (as proposed) which is demolition of the existing structure and its replacement, is the selected project, the Statement of Findings would have to explain what overriding considerations were considered by the City and why that project design was approved rather than this environmentally superior alternative.

Boardmember Makinen: I don’t know what overriding considerations would –

Chair Bower: Pat, you have a comment?

Boardmember Makinen: Let – Gary will correct my terminology.

Mr. Baum: We need to be careful because we’re using certain terms–ultimately, when the Council makes its determination, they have to pass Statement of Findings, and in that findings would explain why one alternative was chosen over the other. So the Council could choose one of these alternatives or the original project but, whichever is chosen, they have to explain it, and some of the criteria is that which you have been going through, and some of it is the project objectives, as well. So it’s important that the project meet the objectives of the Applicant.

Boardmember Makinen: Perhaps it meets the objectives of the Applicant, but it doesn’t meet the objectives of the Historic District.

Boardmember DiCicco: I have a comment. I think what is very complex about this is there’s sort of parallel issues. Number one, you know, I think Julie has brought up, well, we have 88 percent are contributing, and so if we would lose one, it’s still –you know, it’s not a number carved in stone, but here is a structure that in one way is contributing significantly –a significantly contributing structure within the District.

Then, in the next paragraph somewhere here, it says it’s individually not a significant historical structure, but it is within the District. So that becomes sort of an issue as well, and then part of the issue of the alternative that appears to be actually the best in terms of CEQA, would be retention and expansion of the building, but then it’s mentioned that it would be more expensive and not meet the objectives of the owner of the building.

I see, I agree with Mike that what is the most important issue here also is, is it in compliance with the outcome and what the –this is a rather you know an involved
document, CEQA review, and it—there’s—I mean, you can’t meet all of these objectives. It seems really difficult, to me, and Beth has already brought up too, that I don’t think was mentioned in this EIR, that are really more buildings that have been/become less than significant.

I don’t know if this is included in the 88 percent, or—it’s—that’s kind of vague too.

Ms. Caporgno: My understanding from Dennis Backlund is that most of the alterations that have occurred in the District, they’ve all come through you and that, even though it’s mandatory review/voluntary compliance, most if not all of them have retained their integrity and complied with the direction that came from this Board. There may be one or two that haven’t.

So I don’t think the alterations are an issue either. We don’t have real specific data on it. I mean, like building by building, but Dennis is very knowledgeable about what’s gone on, particularly over the last 10 or 15 years, and I think prior to that there weren’t a lot of alterations—from the data he has, it doesn’t indicate that there were a lot of alterations.

And Dennis visits the Professorville District, often times, and I don’t think that he thinks that there are many alterations that haven’t complied with your direction.

Boardmember DiCicco: I have one more question of the owner and, again, it’s hard doing this materially. You know, I’ve tried to review it. As Roger has said, it’s a lot of material to look at. There’s somewhere a project—when the project was started, or maybe two years ago, there was a design of what you were going to build and it was described as a shingle structure, and I wasn’t clear as to why it’s changed significantly from your original design.

Mr. Akin: When the project began we talked to Dennis Backlund to try and get some advice on what the Replacement Structure should be like, and Dennis suggested that for maximum compatibility with the District it ought to be a brown shingle style, and given that, as Bob will remember, when we actually started this whole project, thinking it was going to be Arts and Crafts, that didn’t seem like a big leap.

So the original proposal that we made was for a brown shingle style building. When Michael Garavaglia became involved with the project, he felt that, while perhaps more compatible with the District as a whole, didn’t give enough light to the immediate neighbors, and so he felt that something that had more features, from the Spanish Eclectic style, was necessary and so the original design was thrown out and that would have around September of 2008.

About that time was when we began the incremental redesign process that Bob Peterson described, where we went back to bare ground and then built up carefully from sighting plan, elevations, fenestration, the whole works. That cooperatively designed building became the basis for what you see in the plans now.
The original version was not –Michael judged that it was not consistent with the Secretary’s standards and so we ended up making further changes and then eventually the listed mitigations that you see in the Draft EIR.

So it’s a little hard to pin down the main iterations the second set of plans went through, but the first set, the brown shingle set, was simply thrown out. We still have it, if you’re curious, but it’s irrelevant now, I think.

Chair Bower: I’m going to try to be brief in my comments. I share Roger’s frustration with the Alternative 6.2.2 because I think that, had that been explored more carefully or more thoroughly, that the client’s objectives –Mr. Akin’s and his wife’s objectives probably could have been satisfied because, as Roger mentioned, we put a full basement under a Professorville house without moving the house. The house stayed where it was, and then we renovated the inside. I think there’s a marginal increase in cost, and I say that as a contractor, in renovating historic buildings, but the purpose of the renovation is to maintain the building and if the objective of Mr. Akin and his wife was to have a new house, then of course there’s no way that retention of any building would meet that objective.

I think, in my rough calculation last night, I was able to almost approach the same floor area that the new house has, with a full basement and an addition on the side, and that would largely preserve the building that’s there.

I think that the Palo Alto Stanford Heritage letter that Grace read to us is exactly right on/spot on in terms of the listing of this building. I think it should be listed as presumptively part of –it’s a presumptive category that should be applied here. This building is part of a significant number of buildings within the District, and my understanding of the preservation standards, the Secretary of the Interior Standards, is that we preserve the District.

That’s why the District is formed is to give the District a cohesive shape and scope so that these buildings don’t go away. I own a building in San Francisco in the Liberty Hills Historic District, and those buildings are protected because of that District. We get benefits from them, and I think the City Council ought to be making efforts to make significant benefits available to people who are willing to preserve these buildings.

Now, that said, I guess what I would like the Board –I’d like to recommend that the Board create or craft a Motion that supports the EIR, and in particular this 6.2.2 conclusion, and then encourage the City Council to use its authority to pursue that as a viable option.

I think that we should also recommend that the City Council, at a minimum, adhere to the 60-day Demolition Delay, and then I think we ought to have a list of –I don’t even know how to say this, that we should suggest to the Council modifications to the existing design that make the building more compatible in alignment with the discussion we’ve had today.
So comments from the Boardmembers on that?

Boardmember Makinen: I completely support everything Chair Bower has stated, although re-craft your words into a Motion.

Chair Bower: I just wanted to have a –if that’s the direction the Board would like to take, then I think that –

Boardmember Makinen: In my opinion it is, but –

Chair Bower: Right, anybody wants to make a comment, otherwise I’m ready to move forward with Motions and for the recommendations for the Council, if everyone else is.

Okay, would you like me to make that Motion?

Boardmember Makinen: That would be an excellent –

Chair Bower: So I guess, this Motion would be in three parts, is that acceptable, or should we do it with three Motions?

Mr. Baum: It can be done in three parts. I do want to make one comment that I don’t know necessarily affects the integrity of your Motion. The September 9th letter saying that it is a presumptive part, I disagree with, legally. That’s not what the case says, and this is not a presumptive Historic Resource in my opinion, and it’s also backed up by the facts and the analysis in the EIR.

Chair Bower: Okay, so-noted. I guess, then I would like to propose that we approve the Draft EIR with the following comments and additions.

Mr. Baum: Recommend approval.

Chair Bower: Recommend approval, thank you, that the Council to whatever extent it can pursue 6.2.2 –that’s what you’re talking about, it’s alternative –this is the alternative to –this is the retention and expansion alternative rather than encourage the demolition of the house.

Well, I’m on page –oh, 6– it’s on page 6-20, so the conclusion is 6.4, so that because that’s an environmentally superior alternative and I feel, and some of the other Boardmembers feel, that this is an opportunity to save a building that we feel is valuable in the Historic District, and meet most of the –I’m assuming we could probably craft a way to meet most of the client’s objectives, number one.

Then, as far as the Demolition Delay is concerned, I guess –let me pause here. What’s the –when does that delay begin? What’s the –what date does that trigger?
Mr. Baum: It’s triggered by the ultimate Council determination. So once the Council makes its final decision, that’s when it starts.

Chair Bower: And then, so the delay –

Mr. Baum: I believe that’s how it’s interpreted.

Chair Bower: All right, and the applicant could apply for the Demolition Permit the day the Council makes its determination, and then during the 60-day moratorium, the processing of that permit would occur, is that right, or does the permit application have to wait for 60 days?

Ms. Caporgno: Yes, if the Council approves the 60-day process, then they would be able to get the demolition permit subsequently, and I think that the Ordinance is a bit unclear.

I don’t think the applicants are proposing to demo the house immediately anyway because they have a tenant in there, so they would have to – they’re probably going to wait for the IR process to be completed.

If this goes forward, and the Council certifies the EIR and approves the Demo Delay for 60 days, the applicants have to go through the IR process before they would be able to get Building Permits.

So I’m assuming they’ll probably not, once they get the Demo Permit, they may not demo it immediately.

Chair Bower: All right, you can’t actually now demolish the building until the replacement permit is approved, is that right? I think that’s my last experience?

Boardmember Makinen: Chair Bower, need we comment at all on demolition, the Demolition Delay, since we’re not going that direction? We can stay quiet on that?

Chair Bower: It’s a possibility. They’re asking –

Mr. Baum: The Council needs, and the Ordinance requires you to, to comment on the Demo Delay.

Boardmember Makinen: It would –

Boardmember DiCicco: I understand the first recommendation we made. I think I’m at least voting or recommending that the delay moratorium has been satisfied and it shouldn’t – they should be able to proceed within the 60-day period, and then they’ll either obtain it, or they won’t, based on the other recommendations. Is that correct?

Chair Bower: It’s a Staff question. So can we just say – can I – I guess we’re unclear what the Demolition Delay, what affect it will have at this point, after all of this.
Ms. Caporgno: When it will go into—when the Demolition Permit would be granted, is that the question? I think—the City also has a practice that relates to this that we won’t allow the demolition to be approved and granted until the plans for the Replacement Structure have been approved.

So if you grant the 60 days, it’s not going to occur probably for four or five months, even if the Council grants the 60 days.

The problem is going to be imposing the year delay because if in fact they go forward then the year would constrict them as far as when they could start construction. So that’s why we were suggesting and supporting the 60 days.

Obviously, there’s a window, I mean, a range too. You could do four months, but I think it’s normally done two months or a year. It’s either two months or a year, that’s kind of it traditionally, and since there haven’t been a lot of them, but that’s the way that they’ve been approved is my understanding.

Chair Bower: All right, do you not want to—I’m actually trying to make this Motion while we’re actually discussing it and I don’t think that’s exactly the way we should do this, but I’m—my Motion would be that we recommend that the Council accept the minimum Demolition Delay, and then just leave it at that, because in fact the practicalities are that the building won’t be demolished until the new building is approved, and what’s more important I think is a. to try and save the existing building and b., should that not occur, that we want to make sure that the other issues that we have discussed here today can be applied to the new building to make it more compatible.

So the third part of my Motion would be that the recommendations in the Draft Environmental Impact Report that mitigate and make the building more compatible be followed and the ones that I’ve noted and, again, this is what really occurs during Plan Review, so for us to be making recommendations about building compatibility while we’re only looking at a bare bones plan is, again, backwards to me, and I think to all of us, but so—

Boardmember Makinen: Pat suggested that language that would state that the 60-day moratorium has been satisfied, does that—I don’t want to put words in your mouth, Pat, but I like the way you stated that.

Boardmember DiCicco: I think that was the way it was recommended. It looked like we’re almost contradicting ourselves by these different Motions, but we’re, one, recommending to the City Council to review the alternative of expansion and retention of the building.

In the next sequence, we’re saying do not delay—you know, the moratorium has been satisfied and go ahead and if a permit is going to be approved, go ahead and approve it for the 60-day period, you know.
Chair Bower: I think what I’m going to do, I’m going to step back. I want to make a single Motion that says that we—I just want to deal with the Draft EIR, and then let’s deal with the Demolition Delay, and then finally deal with that. It’s going to be simpler.

So just to restate my Motion, and please help me remember this, that we recommended that Council pursue the 6.4 conclusion of extension and expansion of the existing building as much as is legally permissible by current California laws and Palo Alto Planning and Zoning Ordinances.

Is that adequate? Does that adequately cover our concerns?

Boardmember DiCicco: Yes, I think so, I don’t know, did you mention that per the Draft, the very complete Draft EIR, that was their superior recommendation?

Chair Bower: At this point, that’s all we have is the Draft EIR. It’s not complete.

Boardmember Makinen seconded the motion.

Chair Bower: Is there any discussion. All in favor? Opposed?

Unanimous with Boardmember Bunnenberg recused and Boardmember Lukianoff absent.

Chair Bower: All right moving on to the Demolition Delay, I see no point in having a Demolition Delay because it is in effect part of the permitting process. It’s built in to the building permit process. The delay will encompass, will automatically occur when the review of a new building is processed, and that’s assuming that our first recommendation, which is to try to save the building is rejected by the Council.

Boardmember Kohler: So under the compatibility section the drawings do come back through us for some sort of approval? Or do they just get built? Do they come back to us for the design approval? We’ve only done a few of these, so I’m just trying to remember we’ve done, or what’s changed.

Ms. Caporgno: I believe that the applicants were hoping that the Board would indicate their support for the new structure today, and it wouldn’t have to come back through you when the IR process—when it went through the IR process. That doesn’t—I mean, the Board could request that it comes back for further review at that time also.

Chair Bower: I think by our first Motion, which just passed unanimously, the Board doesn’t really want to approve a new building. We’d like to approve a revision to the existing building, so by your comment, it seems to me that we’ve already made that determination, right? Okay. But we’re going to do these three. Well, let’s make that part of the third process. Okay, so I would move that we recommend to the City Council
that the Demolition Delay has been satisfied by the three-year process, and that it not be extended. Is that — all right?

Boardmember Kohler: I’d like to just clarify the time that it has been actually. There’s a difference between starting a project and making an application, so when you officially became involved, has it been six months, a year, two months? How long has Staff been involved in working with the owners? But I understand there’s no formal application was applied for, or was there? Is there a date?

Ms. Caporgno: Staff has been involved with this project for three years because the application was applied — the application for the Demolition Delay was applied for approximately three years ago, and then shortly after, within a month or two of that application being submitted, the determination was made that we — that the project would need an EIR.

So then we went through the process of selecting an Environmental Impact Report Consultant, and there was the discussion about how do you evaluate a new structure. We told the applicants that they needed to, in this EIR, not only address the loss of the existing structure, but they needed to identify what would go in its place because that was equally important.

So then that necessitated them developing plans for the project, and then working with the Historic Consultant that was working with our Environmental Consultant to develop the guidelines that are identified in the EIR for how to evaluate and to design that structure so that it was compatible with the District.

Boardmember Kohler: I’m sorry, it just blows my mind.

Mr. Baum: I have a point of clarification here, and I suspect the applicant has got these dates better than I do, but the applicant actually applied or spoke with Staff approximately 3-1/2 years ago and in June of 2007 they actually formally applied and requested the Demo Delay issue. Correct me if I’m too far off.

Chair Bower: Yes, Ms. Arden, you wanted to comment.

Ms. Michelle Arden, Applicant: I just wanted to give you the dates, but Gary has already started. So in July — June 2007 we submitted for — at the suggestion of Staff, actually, we submitted for demolition. We first met with Wagstaff and Garavaglia, the kickoff meeting for the EIR, February 2008. We submitted for Individual Review, June 2008.

I guess that’s — and then there were five individual meetings with Wagstaff and Garavaglia and our architect, mostly not us, and City Staff including Arnold Mammaella between February 2008 and July 2009.
Boardmember Bernstein: Staff, just so I can get clarity. So an applicant can apply for a delay of a demolition, a house –for a house that’s not been approved, for a Replacement Structure that has not been approved. Is that correct?

Ms. Caporgno: When the Applicants applied for the Demolition Delay that was the case at the time. Subsequently, we have internally modified our process. It went through the City Attorney’s office. We notified the historic community as well as real estate people that –and I think that this came to –the Board had been notified of this, that now and when a demolition request is made, regardless of whether or not it’s for an historic property or not, that demolition won’t be granted until there are plans that have been approved for the Replacement Structure.

Boardmember Bernstein: Right, and because that was not in place at the time that this project was applied for, for the demolition, we would ignore the current rule. Is that correct?

Ms. Caporgno: That’s correct. I think the practice that I just mentioned has been in place for not more than two years, probably about 1-1/2 to 2 years.

Boardmember Bernstein: Thank you, and that practice applies to this case, even though this application was made prior to this practice?

Ms. Caporgno: We would –now, it’s kind of irrelevant because they are going through the process. I think that we would support them not removing the structure until their plans are approved, and you might want to check with them. I was under the impression that they weren’t going to demolish immediately. They have tenants on the property, living in the house. They also, when they came in, I think originally they did not apply immediately after they purchased the house for the Demolition Delay because they didn’t want to demolish the house until they were ready to build the new structure.

Chair Bower: Gary, this is probably your jurisdiction.

Mr. Baum: Yeah, I was just going to say that it’s CEQA that is driving a lot of this and I opine that you cannot issue a Demolition Permit without a project attached to it because it’s not –it’s dividing a project, so that is the genesis of this, but yes this project is subject to all of that, and the fact that they got caught in the requirement of a full-blown EIR keeps it as part of all that.

Chair Bower: All right, so the building won’t be demolished until a new building is permitted and approved for permit release, is that what you are saying?

Mr. Baum: That’s my understanding.

Boardmember Bernstein: So, I don’t know. I would like to know, and I don’t know, is it true that the house cannot be demolished until an approved permit is for any replacement work, or remodeling work is done?
Ms. Caporgno: Yes, that is our current practice. So when something comes in to the Development Center for demolition, the plans have to be approved prior to the demolition of the structure. I mean, they can apply for the Demolition Permit, but the Demolition Permit won’t be granted until the new structure has been approved.

Boardmember Bernstein: So, I mean, if the Council agrees no further delay on approving a demolition, no demolition can happen until there is a permit in hand?

Ms. Caporgno: Correct. That is why I mentioned before that two months is not probably going to happen, but I don’t think that if the year—we were not supporting a year because that may constrain their ability to construct.

Chair Bower: Right, yeah, okay, I’d like to modify my Motion then just because I want to be absolutely clear. I think that’s what our questions are all about. So we would suspend—my Motion is that the Demolition Delay has been met by the three-year process of review that this project has already—we would—Additionally, we would encourage the City Council not to allow the building to be demolished until a new building is approved for permit by the Building and Planning Department for construction.

Boardmember DiCicco: Question, will this new plan be reviewed by our Board?

Chair Bower: Let’s get this, let’s deal with compatibility, let’s deal with that during compatibility. Can we do that?

Boardmember Kohler: You’ve tied it into the building permit.

Boardmember DiCicco: So, I’m saying that before they approve a new building, because it’s in an Historic District, would the applicants come to us as a Study Session first before there are final plans? Again, I mean, these people have had two or three different plans already.

Chair Bower: Right, it’s my intention in the final Motion that we ask this project—that we get this project back to us with more complete plans, and if that’s what’s going to happen, before it gets permitted. That would be my—okay, so are we clear on the Demolition Delay?

Mr. Peterson: Just one final word. You used the word “new building.” Would you expect the word “new plan?”

Chair Bower: I’m using that term with the assumption that, if we get to the point—no matter what happens, it’s coming back as a different project, I think, because we—I think the next Motion is going to make it a different project. Okay, so we can take that out if you want. New plans.

Mr. Peterson: I would suggest “new plan” if Chair Bower will accept it.
Mr. Bower: I accept it, that’s fine. All right, Dennis or somebody that looks at this tape can take that language into account, unless you want me to try and restate it again. All right, if there is no more discussion, we are ready to vote. Okay, all in favor.

The board voted to support with motion with Boardmember Bunnenberg recused.

Boardmember Kohler: I think that this points out that practice does not make perfect.

Chair Bower: All right, I don’t need to make the final motion about compatibility, but I’m happy to start that discussion, unless someone else would like to do it.

Boardmember Bernstein: Yeah, I have some comments about compatibility. Looking at the plans and compatibility involves massing of the structure, scale of the structure. Looking at the drawings that the architect provided, and they are on the wall for the public’s view also, and it’s particularly on page HRB1-A showing the photo montage of the proposed new structure on the neighborhood, and I have some reaction to the roofing planes.

I was trying to articulate it further and what really helped me articulate my concern about the roofing planes adding massing is the published Palo Alto Single Family Individual Review Guidelines, and on that, on page 11, it talks about over-encompassing inappropriate roof forms does not meet guidelines for compatibility of houses in neighborhoods that don’t have that kind of a structure. I’m going to pass this on to Boardmembers. So it’s right there.

Anyways, that’s pretty specific and that relates directly. In fact, if I look at the roof plan where it says it’s inappropriate, it reminds me very much of the roof plan proposed for this project, so that kind of is concert with my sense that it’s incompatible because of the roof shapes. I think that’s supported by the IR guidelines of what’s not acceptable.

I think the second –the roof planes, you know, when I look at the photo montage, it’s unique and distinct from the other homes in the neighborhood and so my conclusion is that the massing is too massive for compatibility, and that’s why I would support that this is not compatible.

Boardmember DiCicco: I think this has been brought up by Roger also. I believe the roofing materials are not compatible with the District as well, not traditional materials.

Boardmember Kohler: Yeah, I think I agree with previous comments on that. I don’t think I’m going to say a whole lot more.

Chair Bower: Okay, so my Motion would be that we ask the Applicant to return with revised drawings, should this project move forward. Let’s see, after the first two Motions have been –after the Council has made a decision about the first two Motions, if a new building, or even an existing modified building is to be built, we’d like to have the
Applicant come back to the Board and show us a more complete set of drawings so that
we could make a determination.

Our concerns are that the roof planes are not compatible with the neighborhood and that
they more closely meet the –what is that document? What’s it called, the City Guidelines
for New Buildings. Yeah, the Individual Review guidelines, that the roofing materials be
more consistent with the Historic District roof materials, and in the Draft Environmental
Impact Report, there are some concerns raised about distinctive design elements that
serve to direct the interpretation of the building massing and they discuss the entry being
more clearly delineated, and I think I don’t want to go through all of those at this point,
but I do think that those issues should be addressed because I think they’re appropriate
for this particular District.

I wouldn’t have a problem with this design outside of the District, but I think that is our
purpose here, so does anyone want to add another element to that?

Boardmember DiCicco: This might be very minor, but it was brought up by the architect
that there was going to be numerous –it looks like there’s at least 15 skylights, and that
they wouldn’t be very visible, but I’m not quite sure that that’s the case either, and I
guess I’d have to see more detail in the plans.

Chair Bower: Okay, so I think that that’s where I’d leave it at this point, unless someone
wants to add anything to amend that. Any discussion? No, all right, all in favor?

Boardmember Kohler: It needs a Second.

Chair Bower: I’m sorry, is there a Second?

Boardmember Bernstein: I will Second Chair Bower’s Motion.

Chair Bower: Now there’s a Second. Did we have a Second on the last one? Okay, now
we have a Motion and a Second, and no discussion. All in favor?

The board supported the motion with Boardmember Bunnenberg recused.

Chair Bower: Okay, I guess we’ll close this portion of the meeting, close the Public
Hearing on 405 Lincoln.

Boardmember Kohler: I just have a general comment as everyone is cleaning up. It’s
that, in the future, I would suggest, and we’ve been talking about this for years. I don’t
know, I’ve been on the Board 15 years, and it still hasn’t happened. If you could –if
there’s like, we always had the in-process list –we’ve also asked for a list of projects in
process.

You know, what the Staff is looking at that might relate to the Historic Board and,
certainly, if this had been on the list three years ago, it might have had a different
outcome in the whole process because I don’t think, what I’m trying to say is, if things came through to us even on a very preliminary basis, it might help the applicants, Staff and everybody have this process work more smoothly. I mean, three years, and we’re just hearing about it last month, is pretty dramatic.

Chair Bower: I was actually going to under—so we’re working on other business, and I was just going to bring that very fact up. I’d like the Staff to prepare a list of projects that are under consideration so we can see it, and I think that we need, as a Board and a Staff, to actually get/develop a better system for this.

I know CEQA is complicated, and I know it’s expensive, but there has to be a better way for us residents to resolve these issues, and this is just not—it’s unfair to all of us. I mean, everybody, Staff and particularly the homeowners, you know. So I’m not blaming anybody, but I think we need to do this better.

Ms. Caporgno: I just wanted to respond. I don’t think we disagree with you at all. This has been kind of a nightmare for everyone involved. The applicants are well aware of it, we haven’t had this issue come up before, so we were—you know, what I had said before about having the Environmental Consultant do an objective—or the Historical Consultant do an objective analysis of the requirements for compatibility and then evaluate the house.

We thought that was important because they shouldn’t be influenced by anybody because we are doing the separate CEQA document that need to ensure that the building is evaluated stringently using the appropriate standards for review. Hopefully, this will never happen again, but if it does in the future, we need to figure out a way of getting the Board involved early on, but yet allow that objectivity for the Historic Consultant to be retained also.

Boardmember Kohler: You know, fifteen-sixteen years ago, I was on the Permit Streamline Committee with Fred Herman. We met and we—and that’s why the Development Center is where it is because that’s what our request was, to have everything—I mean, I’m not sure it’s working because the Development Center is too successful. There are so many people there and there’s not enough staff most of the time, and people are waiting. But, on the other hand, our Board looks at some really quirky things.

We’re not out there doing everything, and we don’t have very many—I always assume that we don’t have anything to do and yet I keep—we come with these projects that have been in process for 18, 20, you know 30 months. Why haven’t we heard about it? I bet, if you had brought that preliminary to us, you could have eliminated a whole bunch of this stuff that you know you are required to do, but it might have made everyone’s job easier if you had gotten some immediate reaction from the Board but, you know, we don’t know. It goes to the City Council, and we’ll just see what they say.
Chair Bower: Right, I think you ought to encourage any applicant with a project of this scope and scale to come to this Board in a Study Session. We’ve done that, repeatedly, and I think that the project Study Session helps tell the Applicant at an early stage what we’re looking for. It gives the public some opportunity to see it. Then, when they come back to us, as they have with, for instance, the main library and I can’t remember the other one.

I mean, these projects are now both compliant and based on what we as a Board are looking for, and it’s cost effective for the applicant. So a Study Session, and I mean we can’t require it, but I think it’s obviously — yeah, it’s free, and I mean it’s free in terms of Staff costs, but the applicant has to pay for the presentation and architect, but I think it’s, in the long run, a savings.

Boardmember Kohler: And then there is that house on Waverly that was a remodeling, and that didn’t come to us until after the fact. You know, we never saw it, I don’t think. Oh, yeah, it came for an HIE, and then they didn’t do anything that was required of them in the HIE, and Dennis had to go out there and try to make it work. I think all they ended up doing was relocating a few windows.

Chair Bower: Do we have any status reports on historic projects? No, okay, staff announcements? All right, I think we have all the correspondence that we — any correspondence we have not seen today?

Boardmember Kohler: How is Dennis?

Ms. Caporgno: Dennis is okay. He will hopefully be joining you at your next meeting. I did have one thing that Diana wanted me to remind you of, that the HRB Joint Meeting with the City Council, I believe, is scheduled for December 13th. I think she polled all of you, but just to make sure if you could put it on your calendars. And the Chair and Vice-Chair will be invited to meet with the Mayor and Vice-Mayor prior to that to go over the Agenda. So maybe either this month at a later meeting, or next month, you might — the full Board may want to discuss what that Agenda entails.

Chair Bower: Okay, Diana —

Boardmember Kohler: Are we required to bring Christmas presents? Holiday presents.

Chair Bower: No. So, actually, that brings me to my next question. What’s our next scheduled meeting?

Ms. Caporgno: It seems that there isn’t anything scheduled. We have no known project coming up in the near future. The Board could schedule a meeting to discuss the Agenda for the retreat. So if, in fact, we don’t get anything in the next couple of weeks, I can talk to Steven and maybe your first meeting in November, if nothing else, you can at least discuss the retreat at that meeting.
Chair Bower: Yeah, I think we should definitely schedule a meeting no later than the first week in November, because that’s only a month before the meeting with the Council, and we need to prepare for it. We need to discuss what we want to present.

Boardmember Kohler: Is there anything for us to do on high-speed rail? Are we sort of not in the loop?

Ms. Caporgno: The only thing that I know that the Board is going to be—I don’t know if anybody has contacted you yet, but the Board is going to have a representative, I believe, on the Rail Corridor Study Task Force. Oh, and I saw that you distributed that graphic.

Boardmember Kohler: I sent this to you, and I brought some copies, because it’s just shocking to see that this is going to run through Palo Alto. I mean, these things are—it’s just, I can’t believe it. There’s extra copies, so, yeah, okay, just asking.

Chair Bower: All right, so I think we gone through Staff Approvals. There’s no Staff Approvals, probably, because Dennis is not here. That’s the last item on our Agenda.

Ms. Caporgno: Dennis never gave me any information to convey to you, so at this point I don’t think that there’s anything to report.

Chair Bower: I’m assuming that our next meeting will be the first Wednesday in November and we will, at least on that meeting Agenda, discuss our meeting with Council.

Ms. Caporgno: And I might suggest that you—if there are certain topics that any of you are interested in, if you could submit them to Staff, and maybe then we can gather those together and then that would be something for you to work from on your meeting. You could have some opportunity to digest those before the meeting, and then work from those at your meeting in November.

Chair Bower: Okay, Staff, I mean, Board, did you hear that? Let’s email Diana with those suggestions about what we want to talk to the Council about next meeting. Our next meeting would be in the first week of November. Hopefully, we’ll have everyone here. We’ll, at least in that meeting, discuss our Agenda with the Council and anything else that Staff has to bring to us. Okay, with no other business, meeting is adjourned.

Meeting adjourned.
ATTACHMENT B

FINAL ENVIRONMENTAL IMPACT REPORT

AVAILABLE AT
To: City Council  
From: Michelle Arden and Allen Akin  
Regarding: Alternative Design, 405 Lincoln Ave. Project  

October 19, 2010

City Council:

As you are aware, the City has completed an Environmental Impact Report (EIR) for our proposed project at 405 Lincoln Ave. The EIR states that the existing non-category structure is neither historic nor architecturally significant, and that demolition of the existing non-category structure would not have a significant negative impact on the Professorville District. It also concludes that, with some minor mitigations, the proposed new residence meets the Secretary of the Interior’s Standards for Rehabilitation as required by CEQA.

In an EIR, CEQA also requires that an alternative “retention” design be proposed which retains the existing non-category yet contributing structure. We developed such a design, and it is included in the EIR. While the EIR concludes that, with mitigations, the new structure meets the Secretary Interior’s Standards, it also concludes – as will always be the case – that the environmentally superior alternative is a “retention” design, since less environmental change occurs.

On September 1st and October 6th, the Historic Resources Board conducted two public hearings on the project. Choosing to ignore staff recommendations and the EIR’s conclusions about the new design, they recommended to Council that the alternative “retention” design be preferred.

Over the course of this three year+ project, we spent significant time determining if the project objectives could be met with a design where the existing structure were retained. We concluded that they could not. A retention design would require very substantial seismic and structure upgrades which, for an older structure, can be prohibitive in cost; the costs of this project have been so substantial to date that it would likely not be affordable for us. Due to design constraints imposed by the preservation of the current structure, the proposed “retention” design is several feet higher than the proposed new residence, making it much less desirable for either of our adjacent neighbors. A two-story back addition, the only option available, will result in a highly unbalanced mass when seen from Waverley; we feel that it will be abundantly clear that there was an add-on to an existing structure. Importantly, due to the rather extended U-shaped shape of the existing structure, a much larger percentage of the lot would be covered by a structure, effectively resulting in no usable outdoor landscape. Finally, key parts of our program would not be met. As the existing house is raised off the ground, it would be more difficult to allow disabled access, which is a requirement. The siting of the existing structure and the back addition results in poor overall sun orientation. Due to the U-conformation of the existing house, circulation patterns for a retention design are awkward and disfunctional. While not a primary disqualification, the retention design also results in 20% less total square footage.

We list specifics below.
The seismic & structural upgrade and retrofit of the existing residence would require:

- A complete new foundation
- New lateral bracing of all exterior walls
- New lateral bracing of existing roof
- All new electrical, HVAC, and plumbing systems
- Refurbishing of all interior finishes for all wall, floor and ceiling surfaces
- New insulation in all exterior walls, floors, and ceilings
- Replacement of all interior and exterior doors windows and architectural millwork
- New electrical fixtures, plumbing fixtures, and trim
- New gutters, downspouts and flashing

Architectural, siting, and compatibility shortcomings of the retention design include:

- The expansion is greater in area than the original building and includes a second story. These two factors will produce a building that will compete with the existing building, rather than contribute to its integrity.
- The retention design is several feet higher, 28' in lieu of 24’ 3". One adjacent neighbor has expressed significant concerns about the height of the second story; the other, supportive of the proposed new residence, would have a higher two-story addition considerably closer to their lot. The retention design would be suboptimal for both neighbors.
- Given the extended footprint of the existing U-shaped structure, the massing of the two-story addition will be visibly unbalanced with the single-story structure, especially when viewed from Waverley. We believe that this will substantially decrease the overall structure's compatibility with the District.
- The existing building will not meet the Green Building Standards
- Construction costs will exceed the cost of an all-new building
- The fundamental factors necessary for a successful design of residential properties are the orientation of the sun to the interior and exterior spaces and the circulation pattern for both the interior of the home and the site. The sun orientation establishes the quality of light and warmth. The circulation establishes the efficiency and the intuitive connection between spaces. The existing building shape and location on the site prohibits the design of a functional building and site plan for orientation and circulation.
- A much larger percentage of the lot would be covered by a structure, effectively resulting in no usable outdoor landscape. Aside from the obvious loss of functionality, this will also detract from its compatibility with one of Professorville’s defining characteristics: its landscaping.
- Unlike the proposed new residence, the garage doors face the street, making the garage much more prominent.
- Program floor area is reduced by 20% when compared to the proposed new residence.

Sincerely,

Michelle Arden and Allen Akin