



# ARCHITECTURAL REVIEW BOARD EXCERPT OF MINUTES

Thursday, September 17, 2015, Meeting  
8:30 AM, Council Chambers

## Call to Order

## Roll Call

Present: Chair Robert Gooyer; Vice Chair Alexander Lew, Board Members Kyu Kim, Wynne Furth

Absent:

Staff Present: Jodie Gerhardt, Interim Current Planning Manager; Diana Tamale, Administrative Associate III; Sheldon Ah Sing, Contract Planner; Christy Fong, Planner

- 5. 429 University Avenue [14PLN-00222]:** Request for ARB consideration of an appeal of the Director of Planning and Community Environment's Architectural Review Approval of a 31,407 square-foot, four-story, mixed use building with parking facilities on two subterranean levels on an 11,000 square-foot site located at 425-429 University Avenue. Zoning District: Downtown Commercial (CD-C (GF)(P)) District. Environmental Assessment: A Mitigated Negative Declaration has been prepared.

Chair Gooyer: Can we have the Staff report?

Board Member Furth: Excuse me. Before ...

Chair Gooyer: Yeah.

Board Member Furth: Before we can proceed with the Staff report, I will not be participating in this matter. I do not have a conflict of interest under the FPPC rules, but the applicant has accused me of bias. The applicant is, of course, entitled to have the application heard by an unbiased body that will make a decision based on the evidence before it. The accusation is based upon a letter I wrote asking the City Council to hear the appeal of this item previously. I don't share the applicant's view that I'm biased, but I also do not believe it's in the interest of the City to have this already complicated review process complicated by those allegations. I will step down in this case. Thank you.

Chair Gooyer: Okay.

Board Member Furth: I should say that notoriously we are not good judges of our own bias.

Chair Gooyer: Okay, thank you. Why don't we go ahead with the Staff report.

Christy Fong: Thank you for the introduction. This project as described in the project description was formally reviewed by the ARB at three public hearings. In the last hearing on February 19, 2015, the ARB recommend approval to the project on a 4-0 vote with one member absent. The Director tentatively approved the project to reflect the ARB recommendation. Within the prescribed period an appeal was received. In response to that, the City Council held a public hearing on May 4, 2015. The City Council vote 5-4 to continue the appeal requesting the applicant to redesign the project and remand the revised

project to the HRB and ARB. In the hearing, Council articulated they have challenges to make the ARB findings to approve the project. In particular, the Council was concerned with the project's compatibility to nearby building and its relationship to the historic character in the area. The Historic Resources Board reviewed the revised project on September 10, 2015. Their comments will be forward to Council for consideration. In general, the HRB have not unanimously support that there will be CEQA environment-related impact as the result of this project. The Board did express concerns on the project's compatibility with the surrounding context. In this meeting, Staff requests the ARB to review the project revisions and additional study and respond to the Council motion and to make recommendation point-by-point as reference in page 3 of the Staff report as to whether the revisions address the issues outlined on that list. The applicant has prepared a presentation to detail the project revisions.

Chair Gooyer: Thank you. Okay. Then why don't we start with the applicant. You have ten minutes.

Elizabeth Wong: Good morning, ARB members. This is the fourth time, fifth time that I'm here in front of you, the pre-ARB, three ARB meetings and this one after the City Council hearing of the appeal. I need my—this is 429 University Avenue. My name is Elizabeth Wong, and my family owns this property. Can you hear me? In addition to following all the City planning ordinances, we were guided by the Downtown Urban Design Guide book. One of the things that it says is to—what we have tried to do in our architectural goals is to create a building that is placed in time and contributes to exciting, vibrant University Avenue. "Develop and enhance the qualities of University Avenue which make it an exciting outdoor and pedestrian environment including vibrant and eclectic architecture." Downtown Urban Design, page 27. Our second goal was to increase the height at the corner to support Downtown goals of defining street corners. "Street corners are best defined by higher volumes. At mid-block locations, lower building volumes whose upper floors are stepped back from the street are often more appropriate." This is the Downtown Urban Design, page 22. Number 3, design for architectural interest using windows, articulations and setback. From the Downtown Urban Guideline, "create ground-floor architectural interest with windows and displays." In addition we tried to create architectural compatibility that encourages shopping and creates a linkage to Kipling and to Lytton commercial areas. "The Architectural Review Board, Planning Commission and the City Council should use this resource reference in reviewing proposed projects." This comes directly from the Downtown Urban Design, page 4. Our building is 429 University, and the red buildings on this slide show the buildings that are existing or approved that are over 50 feet high. All of these buildings or most, if not all, of these buildings abut to University Avenue. There are no setbacks from the street. The next thing I wanted to talk about is the changes that we have made to the plans that were approved by Planning and recommended for approval to Planning by the ARB. I could go over in detail about all of these, but I think it would take me very long. What I would like to do is to go over and to put the—next slide, this one—and point out to you where those changes occur. Number 1 is at the lower right and is the door that we added to create the rhythm on University Avenue. Number 2, we eliminated that wall, that concrete wall, in front of the building between 425 and 429 University to lighten the mass of the building. Number 3, in this place we put a window to make it more friendly and compatible to the street. Number 4, we eliminated the roof of the third-floor balcony. Number 5, we lowered what appears in the upper diagram as Number 6. We lower it on top of the second floor; it used to be on top of the third floor. Number 7, we eliminated those two columns on the third floor, again, to make the building lighter and less massive. Going to the next slide. Each one of these changes in your tables shows which concern from Council it addresses. It has the reference number and the reference number coincides with Council's concern. We are at Number 9, I believe, 8. On the Kipling side, we did something similar in response to Council's concerns. We eliminated the roof of the third floor balconies. Number 9, we lower the structure that is highlighted in the upper picture, Number 10. We lower to the second floor. In addition to that, we changed the material for the buildings, so that it would be lighter and that it would seem less massive to the passerby. Let's see. We have a Number 11. I think that Number 11 is the stairwell, the concrete stairwell. What we did there, we made it darker so that that would be possible backdrop for art. Number 12, we replaced a double door to a single door on the Kipling side to make the street less popular. One of the concerns was that we were making Kipling too populace. Number 13, we changed the windows—there used to be a row of glass—into more people-sized windows and less prominent windows. I think that those are—okay, now we're going to go to the floor plans and see how these setbacks work. On the alley, we maintain our 4-foot setback from the alley. The entire building is set back 4 feet from the alley.

There's no other building existing at the alley that has a setback from the alley. This is the first one. We also have a 6-foot 10-inch distance from the corner to the wall on the lobby. The setback from the alley to the lobby is 6-foot 10-inches. We are set back 3 feet from Kipling Street. The lobby entrance, the lobby wall is set back 3 feet from Kipling Street. In addition, there is—okay, going over to the next slide. The second floor, that's 4 feet setback of the entire building in all floors is maintained. The building is set back 10 feet from the alley. The walls of the buildings is set back 10 feet from the alley, and there is a 6-foot balcony. The setbacks from the corner of Kipling and the alley are a generous 11 feet 9 inches to the elevator. In front of the elevator, you have a total transparent wall of glass. Those are the setbacks on the second floor. (inaudible) the third floor. The third floor has the same setbacks at the rear. On the Kipling side, the setback is 7 feet 6 inches, and it is 9 feet from University Avenue. I do not know of any other building that has these generous setbacks on University Avenue. Let's go to the fourth floor. The fourth floor setbacks are even humongous. Okay, it's 12 feet 9 inches from Kipling, from 30 feet 2 inches to 39-7 inches from University Avenue. Can you go to the next slide please? We're presenting, we're offering you a beautifully designed building. It was approved before. It was recommended for approval by you before, and now it's even better. This is the view from University Avenue. The next slide shows the view from Kipling Street. Extremely pedestrian friendly, you come south, walking south on Kipling Street. The first thing you will see is this huge planter with a green wall. The planter could be the site of a modern sculpture for art. The lobby could be the site of a modern art that would have a wide-angle view.

Chair Gooyer: You're just about out of time.

Ms. Wong: Okay. I won't go over all the renderings that I have, but I do want to go over—right at the end, I want to show you some of the buildings that are prevalent in Downtown Palo Alto. Not this one, but can you go after that, after 429 University. Yeah. We have this building at 317-323 University, modern building, historical front. Even 323 University is modern at the rear. Next slide. This is 278 University, has setbacks on its third and fourth floor. It's hardly visible from the street. Next setback. Our new building is well suited for that corner. It balances the street; it's long overdue. Next one. This is another view from the street that our building will complement the street. Next, Jaime. This is the Presidential Hotel. What is the definition of massive? Our building fulfills every single Code.

Chair Gooyer: Okay, we're going to have to wrap it up.

Ms. Wong: Okay. This is another building with strong corner anchors. Next one, last one. This is the building under construction. Thank you very much.

Chair Gooyer: Thank you. Okay. We have a couple of speaker cards, so why don't we start with Michael Harbour.

Michael Harbour: Thank you, Board Members. As you know, I filed an appeal in May which the City Council heard. I gave you on a handout just the issues that I laid out which were the main concerns of the appeal, which was the incompatible size, mass and scale in relationship to the adjacent buildings both on University Avenue and Kipling Street. We talked about shadows and the traffic and safety, parking insufficiency of the proposed design, disruption of existing businesses including Stapleton Florist and YogaWorks and the overall loss of retail space. Today, I'm going to just tailor my comments to what I think the City Council has asked you to deal with, specifically the size, scale and massing of the building in relationship to the adjacent buildings. The applicant has showed you a number of buildings not even close to where the building is located on the corner of Kipling and University. Kipling is the most narrow street in Downtown Palo Alto. When she shows the Presidential building on Cowper and all these buildings on Waverley, etc., you can't compare a street that's 40 feet wide compared to one that's only 29 feet wide. Again, the effect of this scale and massing is quite huge. Those are the five storefronts that are slated to be demolished in part of this building. She listed some of the design guidelines for Downtown. She cherry-picked the statements that fit her explanation here to you. What hasn't been addressed here is that the Palo Alto Municipal Code requires harmonious transitions in scale and character that are considerate of each other. The design should follow the Context Based Design Criteria, responsible to the context and compatible with adjacent development including street types.

Specifically, Kipling Street is the major issue that we are appealing. We need to provide appropriate transitions to the surroundings, and this building does not do that. It's a four-story building at 50-foot high plus the additional height required for the HVAC and the elevator shaft, so going up an additional 10 to 15 feet. The new construction must share general characteristics and design linkages to maintain the visual unity of the street. This was the old building that they proposed she showed you. The design was not compatible. There was no shared characteristics or design linkages with neighboring buildings. The visual unity of the street was not maintained and the large scale and mass detracts from pedestrian-oriented design. The new building here is still not compatible. It just moves the third and fourth floors to the rear of the building and shifts all the massing towards the rear. It is the same amount of square footage. If the first and second floors remain the same and the overall square footage remains the same, all she has done is just push the third and fourth floors to the back which masses everything along Alleyway 30 and towards Kipling Street. This new, lighter color is just cosmetic changes. To quote Sarah Palin, it's just lipstick on a pig. Scale and massing overwhelms the view from Kipling Street and the alleyway. You can see that rearview rendering, it is just one big, flat, huge building along the alleyway. Along Kipling Street, there are some setbacks, but you can see everything going towards the back. If you're walking down Kipling Street from Johnson Park and Lytton Avenue, down Kipling Street that's the view you'll see. It is overwhelming for that little, narrow street. It is the same colossal building and footprint on the narrowest street in Downtown Palo Alto. The design that they showed you from University Avenue, it is deceptive because it minimizes the actual building size and mass effect. What's up here is this huge, ugly flat wall that you're going to see from University Avenue. They've conveniently put a very large tree hiding it there, but this is no different than what it was before. It's just huge. We have a one-story building right there, a 1 1/2 story building, and four stories plus the additional HVAC materials. You have up to 3 1/2 floors of flat wall where the edge of the building meets ...

Chair Gooyer: You've got 20 seconds left.

Mr. Harbour: Okay. The size is not compatible with the neighboring buildings. Again, from Kipling Street you have a one-story building right here and then this four-plus-story building next door to it. This is what it looks like to scale from the back of the alleyway. A one-story position right there against this four-stories. I want to just reemphasize here that the applicant has made some cosmetic changes, but has not listened to what the City Council and the appellants have asked for, which is to address the size, scale and mass and specifically from Kipling Street. The HRB has asked them to address the historic resources that are along Kipling Street, and they've shown you all the buildings that aren't there. Thank you so much.

Chair Gooyer: Thank you. Now I have Jim Trotter, and then Doria Summa. Is Jim here?

Jim Trotter: Hi. Excuse me. I'm working for Jaime and Elizabeth Wong. I'm the architect coming after Ken Hayes. I'm really basically coming on board helping with some of the follow-up work regarding revisions and the studies of the project. The presentation's already been made about all the changes in Revision 6. I think what's important to note on this is that I really think that the design itself from the beginning has been a wonderful design. I think Ken Hayes did an elegant and a beautiful project, one of the better mixed-use projects I've seen in this area, in Palo Alto. Considering the context and the complexity of the uses, I think this project has been very well integrated and well thought out, maximizing really what can be done with a site like this in terms of retail, commercial and residential as well. I mean, this really is contributing to the area and the community in ways that really are hard to measure beyond the actual details you already have shown. In response to the criticism already made, the massing has been considered more than a few times now. In Revision 6, the scaling is done appropriately for the storefronts, neighboring properties. Some of the renderings, even though they're beautiful renderings, some of the weaknesses of our renderings sometimes can be when they're two dimensional, it doesn't really show the real scale for the pedestrian walking along the street. I think it should be understood that from the street you actually have these trees already screening some of the things pointed out as being high masses above the second floor. You already have from a pedestrian angle on University and Kipling a scale that is more appropriate than is being presented right now in criticism of the project. I'm basically just adding comments I think have been made before, but really the changes made in Revision 6 do adequate justice to really make it appropriate for the massing and

keeping the function and integrity of the project intact. Much of the mass that's left, especially in the rear part of the project, is necessary and needed for the project to work. Code wise, in terms of function, without that really the integrity of the project would be lost. My opinion, really I think the project should be approved as is at Revision 6.

Chair Gooyer: Thank you. Doria, and then Jeff Levinsky.

Doria Summa: Good morning again. I'll be very brief. I'd like to say that I don't think enough improvements have been made yet to this project to move it forward. The massing has been kind of—not been reduced but rather shifted and shifted towards the back where it has the most impact on the historic resources on Kipling. I don't believe that this revision truly reflects the changes that the City Council had asked the applicant to make. I'm not sure—I may have missed it, but I don't think the shadow study that was asked for was included. I think that's pretty darn important when it comes to such a narrow street and shadows casting. Thank you very much.

Chair Gooyer: Thank you. Jeff.

Jeff Levinsky: Thank you. Good morning again. I enjoy very much walking in Palo Alto and particularly Downtown and on Kipling and so forth. I think I'd like to mention that Kipling, of course, is a treasure to our City, and we hope that it'll be preserved for many decades and maybe centuries. I wonder about the impact of this building on Kipling from a pedestrian point of view. I've studied the drawings and I don't think any of the drawings actually reflect what a pedestrian walking up and down Kipling would see. I would ask you to look carefully at the drawings to see if any of them have the correct perspectives of that sort. Many of them seem to have a perspective from a second-floor level which minimizes the massing of the building. Some of them seem to have perspectives from positions that don't seem like people could really stand at that spot normally. You were shown earlier some photographs of other buildings, and those seem to be taken from very much the ground level, so you're looking up and they look quite large. That's not been done for the renderings given to you for the proposed building. I think that's an important difference. It might help to suggest that there be story poles, so that people walking on Kipling can actually see how tall this will be. As has been previously indicated, it looks like the mass and scale from Kipling is unaltered by these plans even though the Council directed that that be addressed. I think there's a serious problem there. I would also ask you to address your attention to the traffic study. Michael Harbour's notes that were handed out to you do address that. I believe that's also a concern from the Council. Thanks very much.

Chair Gooyer: Thank you. I have one more, Ken Fong.

Ken Fong: I've been in Palo Alto for well over ten year. I enjoy the City. I walk around University Avenue, sometimes Kipling, from time to time. I have a lot of friends around here. I actually look at that building at High Street and Hamilton. That's a huge building too. It's (inaudible). My wife tell me it's about five story. Is it four story? It's huge. This one, I'm not quite sure is bigger than that one. Secondly, I noticed that—is the mike on? Is the mike on? (inaudible) he said this building ugly. I'm not quite sure why he has to mention about this kind of perception. He didn't like it, and he called it ugly. He would have designed building and then offer to ARB for the rebuild. I'm not quite sure that he would pass it either. There's a lot of (inaudible) kind of determination of what beauty and ugliness is. That's something, I feel kind of unsettled, how things are being determined. I thought the ARB had approved this building before, right? I guess you get to argue it for another few years about what is right, what is wrong, before you approve it. I'm not quite sure how you got to make decision with the City. As I told you, I love the City. I've been here for more than ten years. I'd like to have a little bit more sensible kind of a decision-making process in the City. Thank you.

Chair Gooyer: Thank you. Is there anyone else out in the audience who wants to address the Board? Seeing none, I'll close the public portion of the meeting and bring it back to the Board. Probably what we should—I guess the main preface is to address the six or so items that we have in our report that were mandated by the City Council.

Vice Chair Lew: There are eight.

Chair Gooyer: Okay. Sorry, eight, yeah. Why don't we do that or at least sort of surmise what our view is of those items. Kyu, you want to start?

Board Member Kim: Sure. Thank you, Mrs. Wong, for coming back to the Board with your revision.

Chair Gooyer: I tell you what. Let me do one thing. It might be worthwhile—would it be worthwhile reading what the—or does everyone have, I guess, copies of—oh, there you go. Okay, never mind. All right. Why don't we do that? I'm sorry, go ahead.

Board Member Kim: That's fine. I don't know. Should we each just go through each item or should we ...

Chair Gooyer: Might as well or at least ...

Board Member Kim: ... start on the first and then maybe go around or ...

Chair Gooyer: Whatever's comfortable for you. Just as (inaudible) touch base (inaudible).

Board Member Kim: Sure. The design shall be compatible with the immediate environment on the site. I mean this is tough, because from University I'd say it's compatible. It's been compatible. Of course, the issue that's been brought to us by the members of the public that spoke this morning have to do with the Kipling side. I think it boils to is it compatible with what's there currently versus is it compatible with what's potentially allowed along Kipling. That's where I struggle to lay down a solid opinion. I think with what's allowed by the zoning restrictions, and even looking at the building with that Kipling elevation, I'd say you could technically argue that it does address the other buildings that are on Kipling. It's not like it's completely turning its back against it. I mean, it could be far worse than what we have here. At the same time, I do understand the concerns of the people that feel that it doesn't respond enough. I'm really torn there. I think we've already made a decision on the building. I stand by that decision. Maybe we can go around and kind of add to that discussion about this one.

Chair Gooyer: Okay. How about any of the other—I mean we don't have to do each individual one. We can sort of a general ...

Board Member Kim: All right. There are some comments out there about, well, the massing has been changed but the square footage of the building is the same. I think that's still an attempt to change the massing. I mean, the square footage isn't something that we can necessarily control, especially with our purview. That's a planning and zoning thing. I think they're making the efforts to mass the building such that ...

Chair Gooyer: Hold on a second, Kyu.

Jodie Gerhardt: Board Members, could you please be clear what portion of the motion you're speaking to? Thank you. Which portion of the Council's motion you're speaking to. Is it "A," "B" or "C" on the screen that we have here?

Board Member Kim: Yeah. It was "A." I mean, it does touch upon some of the other ones, but I was still sticking with "A."

Chair Gooyer: All right. Then why don't we go down to this (inaudible).

Board Member Kim: Speaking to "B," unified design character. I'd say it ties in with the neighboring buildings along University. Is it the immediate neighbor? Maybe not. When we talk about a neighborhood, when we talk about a Downtown district, it's not only referring to one or two buildings to the left and to the right. It's referring to the buildings across the street. It's referring to buildings

possibly a block away. Is it unified with the character of those buildings? I would say that it is. Now again, that's where we go to the Kipling side, and it's a different story. It's so different. I think even with the existing conditions, even with the existing buildings, the character of Kipling Street is very different than the character of University. Speaking to Letter C, compatible with the approved improvements both on and off the site. That's a (inaudible) one to speak towards. I'll just move on. "D," design of rooflines, entries, setbacks, mass and scale with context-based criteria. Again context, I would argue that it's not the building to the left and to the right, but it's really the context of that neighborhood. Street building facades, this one is "E." Buildings return with greater enforcement of relationship to the street with building mass. If anything, on the University side it actually makes a larger effort to make the scale feel less. I think the building reads much more like a two-story design all the way across the University elevation. The shadow patterns. There was a shadow study that was provided to us in the packet. It seems to me that the—it was a little bit difficult to understand actually why—there was one that was site only and then one that didn't have that text. Actually for the summer solstice, I don't know if that's accurate, because I still see the tower portion, at least what I think is the existing tower portion of the building that's casting a shadow still with the new building. I don't know if maybe the other Board Members have caught onto that. That would be for summer solstice, June 21st.

Vice Chair Lew: Do you have a page? I did look at those; I didn't catch that.

Board Member Kim: There's no page number, but it's the June 21st. Kind of in the middle of the packet.

Vice Chair Lew: Yeah.

Board Member Kim: Thank you for this ...

Vice Chair Lew: It's confusing because it could be a tree. There's an existing ...

Board Member Kim: If you look towards the top of the building, so above the building, you see the mass of two kind of buildings. I don't think that's the shadow of the tree.

Vice Chair Lew: The middle diagram?

Board Member Kim: For all three of them actually.

Vice Chair Lew: (crosstalk) or all three?

Board Member Kim: Yeah, just above the building. In Alley 30, you see shadows of ...

Vice Chair Lew: Right. There are two bumps. I see what you're saying.

Board Member Kim: Right. To me, that appears to be the shadow remaining from the existing building.

Chair Gooyer: Yeah, it is.

Board Member Kim: Something's not right there.

Vice Chair Lew: I see what you're saying.

Board Member Kim: Moving on to "G," the circulation analysis including Lane 30.

Chair Gooyer: Right here. You can see it on here. See, it matches those two.

Board Member Kim: Right, exactly.

Chair Gooyer: It doesn't match that.

Board Member Kim: Right.

Chair Gooyer: It's not accurate.

Board Member Kim: As far as the circulation analysis including Lane 30, I think there's been extensive traffic analysis of this site including that main. Then "G," direction that the project shall design linkages with overall pattern of buildings so that the visual unity of the streets are maintained. Again, University, I think it does that. It's always done that to me. Kipling side, it's another story. I'm curious to hear from my other Board Members as to what comments they can provide on that.

Chair Gooyer: Thank you. Alex.

Vice Chair Lew: Okay. For "A," I think I agree with the Staff report that some of the articulation has been lost. With removal of the—which was the gray stone tile, which I had always thought was a little too dark. It actually added a layer of complexity to the façade. Now without it, I think the building is looking really too bland and doesn't have enough articulation. I walked up and down the street again yesterday. The existing buildings, I mean most of them have railings, crenellations. They have more depth to their facades than this proposed project. I think something's been lost, and I think that that could be brought back to this project. That's on the University side. On the Kipling side, I have always maintained that like adding retail windows to Kipling is a huge benefit. I think the down side is really that the bulk of the building has been pushed towards the alley. It is sort of like a fairly uniform block of gray stucco, as I see it. There's not a lot of refinement or definition or just even like filigree to it. I do think that the great effort has been made to minimize the massing in terms of like having outdoor walkways, right, instead of having like enclosed walkways. Again, I think that more could be done to give it more character. Okay, Item B. On University Avenue, I think I touched on that before in my previous comment about University Avenue, just that there's more detail on the buildings on University Avenue. With regard to the Kipling side, I'm thinking that there has to be some sort of break. I actually went to try to understand the history of the site. I actually downloaded all of the Sanborn (inaudible) maps from the site—I have them here; you can't really see much from them—just to understand how the City developed. It was really like University Avenue at the turn of the century was a Victorian—this part was large Victorian houses. There was some big huge Queen Anne/Victorian on this site. If you go forward into like the '20s, like there's one from 1924 where you can see that the concrete retail buildings on University Avenue extended down to Waverley. Then you go to like 1949, they extend all the way down, farther towards Middlefield. That's just sort of the way the City's developed. There's always been a break between University Avenue and the Kipling Street houses. If you even go to—if you look at the map, like all of Lytton was turn of the century houses. Most of those have been removed. On University Avenue, we just have one; there's one left right down near—I think it's the 500 block. We have one Victorian left. To me there is going to be some sort of distinction there. Really the issue is—with regard to style, then the issue is is the massing too much, is the way I look at it. To me, it's really a difficult thing to try to give like a Victorian character to a mixed-use building that has to meet Fire Codes and whatnot. Really it's technically possible, but it's really difficult to reproduce or even mimic like a Victorian style on a new building. It's sort of a dangerous game. We've already cut down all the old growth redwood trees that built the Victorian houses. We don't really want to cut down more of those. To me, there has to be some level of break. I think the problem I'm having though is that—it's just the new building, it's just not quite good enough to me. It doesn't meet the standards set by other buildings Downtown. Okay. That was "B." I think "C" is very similar. I don't really quite understand the onsite and offsite relationship on "C." I don't know if Staff—do you have a sense for that? You're saying like existing—I mean sometimes onsite is existing like existing street trees or existing site amenities, but I think everything is being removed. If I can move on. On "D," I think that the removal of the third floor, the roofing—basically the roof covering over the third-floor decks, I think that is actually a substantial change to the University Avenue street frontage. I did look at all of those views like onsite. I think that that's actually a significant improvement. Again, I think the—recurring comments—that the back hasn't changed. I think that in the documents the applicant is saying that that's really the back, like the placement of the stair and the elevator core and the driveway are really fixed. Those are critical places to locate those. I would actually agree with that statement. I think the basic locations of those are sound. The Kipling side, though, is still looking like very different than the—it's still looking fairly blocky

to me. On street building facades, I am okay with the setbacks on the upper floors. I think the argument is is the four floors on the alley, right, too much for the one-story commercial building on the other side of the alley. Right? That step down. It's kind of interesting that the—lots of compatibility findings for when like commercial goes next to residential, right, to sort of mirror and step down the massing. Really we actually don't really have them; we don't have specific examples in the context-based findings for commercial to commercial. I think that's sort of an interesting place for discussion. Again, to me it goes back to the transfer of development rights. This is a 3.0 floor area project which is larger than what we would normally allow which is like 2.0 floor area. Under previous zoning we do have buildings all over Downtown, right, with the 3.0 floor area. They're there and I don't—to me it's part of the context, but the Council has given us direction to give it a very narrow focus on adjacent buildings. With that focus, I would say it's not working—they're not working together in that. I would agree with the applicant in a broader context of Downtown Palo Alto, it is compatible. The shadow studies, I think, were very interesting. I mean, it really shows, I guess to me though, that the alley gives the buffer that's needed. Again, the new building is casting shadows on the one-story building on Kipling, but that building doesn't really have windows facing the alley, so it doesn't seem to be an impact. I did read the circulation analysis, and I did see that. I wasn't really quite sure—you're saying we can't tie it to this particular application. I was wondering does that mean—that doesn't mean we can't do it. I was wondering, a question for Staff is like the ARB doesn't really have jurisdiction over circulation, but the Council could, right? Okay. I guess I would support those changes recommended by the traffic report. This is kind of a different—because this is an appeal, we don't necessarily get to see this again. My recommendation would be for this to come back with some really refinements to the skin of the building and possibly smaller. If we're having a fight over this, why don't we split the difference? If the difference is between 2.0 and 3.0 floor area, then why don't we split the difference? There are some really awkward things in the massing at the moment, like there are bathrooms up on the fourth floor that are facing University Avenue. That's like the best solar location, and we're putting sort of like the least desirable use, in my mind, right up on the top corner. There are bedrooms, there are two of the bedrooms on the —one on the third floor and one on the fourth floor that just have a door out to a deck. I don't think that's going to meet the Building Code minimum requirements for like light and ventilation. I think that there's still some things that need to be worked on in the plan. I think it's headed in the right direction, but it's not ready to be approved today.

Chair Gooyer: Thank you. Yeah, I have to agree. I mean I did the same thing. I walked the site again yesterday just to double check. Considering how this project came to us originally and how it's been trimmed back and stepped back, I think at this point—I mean it's got a four-story brick straight elevation directly across from it on University that starts at the back of the sidewalk and goes straight up. The design the way it is now actually—I have to agree with you. I think it's become a lot blander than it was originally. I guess that's the problem I have, is that when the sole purpose is to cut back the bulk, then you end up getting strange things like the bathrooms and the bedrooms with no articulation on it. I think the front on University Avenue is—the two-story matches what it's next to. I think it's gotten a lot more bland and a lot less interesting than it was before. I don't know if just bringing the bulk has really helped the project as a whole. The biggest thing seems to be how it relates to Kipling. If you look at what's already there, the old Apple store basically is a three-story building across the street that goes straight up. By the time you get that metal—I know technically it's a two story, but I'm saying size-wise by the time you get that metal box that's sitting on the back, it's the height of a three-story building. I don't care whether you call it a two—in fact you could probably theoretically call it a one-story building with a storage space. Still, the bulk is there. As to directly in back of it, we're talking about the shade study. We're having to—a fairly new building is going to be there for a while, and we need it to relate to two very non-distinguished looking one-story retail buildings that over the years have been a printing outfit and I guess it's an exercise gym at this point. I mean, if any shade is going to be on anything, on the roof of that would be as viable a thing to have it as anything else. Let's face it, Lane 30 is a service lane. There may be an occasional person that walks there, but they're going to be doing it to cut across and go from Point A to Point B, not a leisurely stroll down Lane 30. The Victorians in the back are gorgeous; I hope they never change, but we're talking three buildings back by the time you get to the first Victorian. I've always seen in many situations like this in other cities also where if you have a, let's face it, a commercial street like University, and they occur in all municipalities, what you want sometimes is a buffer from the residential area in back of it. I think a two-story in the front—I mean if you're going to—

finish my sentence. It's basically that I think that's a good thing. It almost seems like what we're looking at or what we're being asked to do is to reverse it so you put the four-story bulk on the University side to match the building directly across the street and drop it down to a two-story in the back. That's not going to fly either. I think the solution that has come up was based on what is allowed these days. A lot of that is based on what the zoning is and, as you said, the whole transfer of development rights issue. As long as these things are on the books, we can't really prevent people from bringing us applications that look like this. It's our responsibility to judge what's best to make that building conform to the area around it. I think in this particular case, I have to agree that I think it does meet the requirement for the setbacks and all that actually almost to a fault. I think it works with the character of the buildings around it. I mean the reality of it is University Avenue is changing. Let's face it, a lot of the one and two-story buildings that are there now are not going to be there. The land is just too valuable that the owners of those buildings are going to want to make those taller. That's something you just can't prevent. Let's see. Approved improvements both on and offsite, I guess the answer is yes. Design rooflines, entry, setbacks with context-based criteria. Based on the areas around it, I think it's doing the thing properly. Street building facades. Actually, as I said, this reduction of massing has diminished the quality or the texture of the building that was presented to us under, I guess, Option 5 than it is now. I think this building is blander than it was the last go around. The shadow pattern, like I said, it works for the setback. Obviously it does have a problem along the back in the alley, but again based on the fact that that shade then covers a service alley and two buildings that are basically used for retail and don't have any windows really facing that area, I think it's fine for the way it is. Let's see. Direction that the project shall share design linkage. Yeah, I mean I agree it's a little tough to say you want the back of that building to have a Victorian linkage to it. Realistically, the closest Victorian building is one property back across the street or the third property behind this one. The only ones you can really relate to directly are the old rectangular box that's the old Apple store and, directly in back of it, the two one-story nondescript residences—I should say retail spaces. I think it does relate to the buildings around it. Anything else anybody else wants to add?

Vice Chair Lew: I have a question for you guys. What do you think about the glass railings? They seem to—like in the new design, they seem to be more prominent now than they were before. It seems a little out of character for the context.

Chair Gooyer: I agree. Like I said, I agree with you. If this goes further or however this leads, I think it ought to come back to us. Like I said, I'm not real thrilled about the elevations, the way they are right now based on what was needed to get the massing. Yes, I agree with you, the glass there I don't think works. I should say I think there are better solutions for that.

Board Member Kim: Yeah, I agree. I think what's lost—I appreciate you bringing that back up. One of my earlier comments from earlier reviews was that this building is replacing several smaller-looking facades. It'd be nice to kind of continue to keep that. I think removing the darker stone on the University elevation does remove that and make it a little bit more uniform. In doing that, it actually raises awareness of the horizontality of the building. I think the glass railings ...

Chair Gooyer: I agree.

Board Member Kim: ... add to that. Previously when we had the darker stone façade, at least it had some vertical elements that were emphasized to bring some relief to that as well as some contrast and breaking up the elevation as well.

Chair Gooyer: Anyone else? Does that give you what you're looking for?

Ms. Gerhardt: I think if we could make sure that all of the Board Members, that there's a group conclusion on these different motions.

Chair Gooyer: I didn't know it—does it need a motion or something? I think we're all in agreement that it does seem to fit in with the context, but it's lost something in the shrinking of the massing. Would you guys agree with that?

Vice Chair Lew: I think I'm in a slightly different position than the two of you. I think the way I'm thinking about is that if the fourth floor were eliminated, it would fit in better. I think that's where I am.

Chair Gooyer: I don't have a problem with that. The thing that always bothers me with that is then—in one respect we allow these transfer of development rights and then we say, "Yeah, but that's all fine and dandy. We let you do all these complicated mathematical formulas, but you can only put three stories on it." If that's the case, then the City or the Council needs to say we can only have three-story buildings in this area or whatever. I mean if there's going to be something like that, that's always the problem with that. I understand a lot of this stuff is taken on one at a time but, like I said, then you look at the building across the street and it's that brick four-story building that the façade goes straight from the back of the sidewalk all the way up. There's no setback, no nothing. Now, rightfully so, that may be one of those "oh, my God, we never want to see that done again," but still I think a lot of effort has been put by this particular applicant to step everything back. Yeah, I agree with you that would probably be the best solution, but again if that was done, realistically if you're walking in the alley, you never see the fourth floor or almost see nothing of it. As far as the shadow line, it really isn't affected by it considering the size of the step back. Other than looking at it from the—what is it—the President Hotel or somewhere at some unrealistic bird's eye view, it's hard to tell there's even a fourth floor up there. I mean, unless you go looking for it. I mean, the average person walking down University or Kipling isn't going to.

Vice Chair Lew: That's interesting. I did not look at the, say like from Lytton, I didn't go that far out to see what this potentially could look like.

Chair Gooyer: Okay.

Vice Chair Lew: Yeah, I can see this screen ...

Chair Gooyer: How would you like to—how do you want to—do you want to put an adjunct to that or what I stated? You can add to that, like I said. I have conflicted ways about that as far as the—if we're not going to allow the fourth floor, then we shouldn't allow all the rigmarole of the transfer of development to get it done in the first place. Just say it's FAR of whatever, and you're limited to three floors or four floors. Then you get people to come back and say, "Hey, wait a minute ...

Vice Chair Lew: I know. This is the way the rules are written. It's like it has to be compatible ...

Chair Gooyer: Right.

Vice Chair Lew: ... to get the transfer of development rights. That's why we're here.

Chair Gooyer: I understand. It's sort of a black and white situation and a very gray answer.

Vice Chair Lew. I know. I know. It's very difficult. Some people say, "Well, why can't you just put the transfer of development rights on a project on Alma where it doesn't impact anybody?" We've had big projects on Alma, and they're still controversial. There's no way around that here in Palo Alto.

Chair Gooyer: Anything else you want to add?

Board Member Kim: No.

Chair Gooyer: Okay. I think that'll do it from us then.

Ms. Gerhardt: Thank you.

Vice Chair Lew: Staff, can you tell us does this go back to the Council? Is there a date? Is it scheduled?

Ms. Fong: We are trying to coordinate a date to get back to Council the end of October or early November. We will forward your comment and the HRB comments to Council for their final decision.

Vice Chair Lew: Thank you.

Chair Gooyer: Thank you. I think that's it.