



CITY OF PALO ALTO CITY COUNCIL TRANSCRIPT

Special Meeting
March 27, 2017

The City Council of the City of Palo Alto met on this date in the Council Chambers at 4:34 P.M.

Present: DuBois arrived at 5:35 P.M., Filseth arrived at 4:40 P.M., Fine, Holman arrived at 4:45 P.M., Kniss, Kou, Scharff, Tanaka, Wolbach

Absent:

Closed Session

1. CONFERENCE WITH REAL PROPERTY NEGOTIATORS
Authority: Government Code Section 54956.8
Property: Terman Apartments, 4230-70 Terman Drive, Palo Alto, CA
Agency Negotiators: James Keene, Lalo Perez, Hamid Ghaemmaghami, Hillary Gitelman
Negotiating Parties: Terman Associates/G&K Management Co. and City of Palo Alto
Under Negotiation: Option to Purchase – Price, Affordability Restrictions and Terms of Payment.

Mayor Scharff: We're going into a conference with real property negotiators—into Closed Session regarding the Terman Apartments as set forth in the Council agenda.

Vice Mayor Kniss: I move we go into Closed Session.

Mayor Scharff: I need a second.

Council Member Wolbach: Second.

MOTION: Vice Mayor Kniss moved, seconded by Council Member Wolbach to go into Closed Session.

Mayor Scharff: All in favor. That passes unanimously.

MOTION PASSED: 6-0 DuBois, Filseth, Holman absent

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Council went into Closed Session at 4:36 P.M.

Council returned from Closed Session at 5:48 P.M.

Mayor Scharff: ... the Terman Apartments ... with the owner to extend the affordability restrictions on the property. That's all I have to report out on that Item.

Agenda Changes, Additions and Deletions

Mayor Scharff: Now, we will move to—I don't think we have any Agenda Changes, Additions or Deletions, so we'll move to the City Manager Comments.

City Manager Comments

James Keene, City Manager: Thank you, Mr. Mayor and members of Council. I only have a couple of items to report. First of all, there is a Downtown Residential Permit Parking Program open house for businesses. That will occur this Wednesday, March 29th, from 4:00 to 5:00 in the Community Meeting Room at City Hall on the Downtown RPP Program. Employers and employees can learn more about the program, have an opportunity to ask questions, and speak to Staff for permit assistance. Staff will go through each step of the online permit purchasing process. We call on the media to help share that information. Lastly, I just would present to the Mayor that the City has been awarded our Tree City U.S.A. status for the 30th year. We're one of 150 Tree City U.S. communities in California and among 41 that have been a Tree City for 30 years or longer. What has distinguished Palo Alto has been the ability to build on basic standards and consistently improve how people interact with their urban forest. More than 3,400 communities have made the commitment to become a Tree City U.S.A. by meeting four core standards of sound urban forestry management, maintaining a tree board or department—a tree board is not lumber; that's a board of folks dedicated to trees—having a community tree Ordinance, and spending at least \$2 per capita on urban forestry, and celebrating Arbor Day. Mr. Mayor, if I could put this up in front of you for the meeting today, that would be great.

Mayor Scharff: Go right ahead.

Mr. Keene: Just a reminder of one of the many great things we do. That's all I have to report.

Mayor Scharff: Thank you very much.

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Oral Communications

Mayor Scharff: Now, we're at Oral Communications. Our first speaker is Sea Reddy. You'll have 3 minutes. Sea will be followed by Mark Petersen-Perez.

Sea Reddy: Thank you, Mayor. I want to congratulate Stanford for getting into the top four, Stanford NCAA women's team. We hope they'll get to top. The second thing is all this discussion about healthcare. Maybe we are United States of America. That means every state has their own plan, how to take care of their people. Maybe not even the State, maybe counties, maybe cities. I'm just thinking that maybe we could consider—Palo Alto or the 18th District could consider healthcare for our citizens, people that reside in our communities, maybe a little broader like the 18th District or a few counties together. Basically, Henry Maslow, who used to live in Menlo Park, had a hierarchy of needs. He's Professor Maslow; we all read about him. The needs are, I think, more important than housing. I think health is more important than housing. If you have good health, maybe you can take care of yourself, have a house somewhere, live somewhere, have a job. It's nice for cities like Palo Alto—all the cities that we live in are very wealthy, very well off, very healthy. Maybe for those that cannot afford it, maybe we could provide a healthcare provision where we could some way provide them the basic needs of essential medical care. We're not talking about prolonged care for them. It's for the citizens of our communities, leaders to think through how we can do this besides all the discussion at the Federal government level and the State levels and County levels. Thank you. Think about it.

Mayor Scharff: Thank you. Mark Petersen-Perez to be followed by Melanie Liu.

Mark Petersen-Perez: Over 10 years ago, I was known as the Brock Turner of Palo Alto. I was accused by the Palo Alto Police Department of committing a heinous crime, raping my wife, raping my stepdaughter on a daily basis. Horrible, horrible crime. The Palo Alto Police decided to install a rape hotline in my apartment. I didn't pay the bill, and that bill ballooned to \$3,000. It ruined my credit for over 10 years. My credit score now is 759. I sued the City of Palo Alto. My son was in the audience along with my mom. Agent Dan Ryan was in the courtroom explaining to the judge the reason for the rape hotline. The reason for that rape hotline is so that my ex could phone the Palo Alto Police. It was horrible. I sued the City of Palo Alto, and I lost because Agent Dan Ryan in full uniform with his Glock 9 or Sig Sauer told the judge that the reason why we needed that hotline is for exigent circumstances. The Palo Alto Police did not even investigate for

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exculpatory evidence. Horrible, horrible, horrible. They still haven't. I'm still on the hook for this horrible crime. I have argued before the California Supreme Court on two occasions, going after bad lawyers. It's a lot of work. I succeeded, and I'm not an attorney. Better than filing another claim against the City of Palo Alto, I'm going to be going after Molly Stump's law license, and I'm good at it. My son will tell you that. When he was 10 years old, what kind of check did I negotiate for you, son? You went smiling all the way to the bank, didn't you? I am a negotiator. Why? Because I studied criminal law, tort law, and constitutional law for over 30 years. I'm good at this practice. It's much easier to go after someone's law license. I've done it twice, and I'm going to do it again when I go back to Nicaragua. She is going to lose her law license because she has allowed me to suffer. This Council has allowed me to suffer. Think about this. I want a letter of complete exoneration for this crime because I didn't commit the crime, and a check for \$5,000. That's all I want, and I'm gone. I'll never come back before this City Council. You have my promise. Think about this. A letter of complete exoneration because I didn't commit this damn crime, and a check for \$5,000 because the Palo Alto Police Department stole my property. That's the value of it. Have I made my point clear?

Mayor Scharff: Thank you.

Mr. Petersen-Perez: Issue the check and the letter of exoneration.

Mayor Scharff: Melanie Lieu to be followed by Joey Gittelsohn.

Melanie Liu: Good afternoon. I'm here to represent a local organization, the Alliance and Solidarity with Standing Rock. As you may know, President Trump has green lighted the Dakota Access Pipeline and the Keystone XL Pipeline. Despite this, the movement to defund DAPL is far from over. Since we spoke to you here at the City Council Chambers last month, banks, colleges and universities, and cities are all taking moves to divest from DAPL. Just 6 days ago, ING Bank, a Dutch bank and one of the largest financiers of DAPL, has made a move to divest completely from DAPL. They've sold their investments. KLP, Norway's second largest pension fund, 3 days before that made a move to also sell their investments in DAPL. The UC system has made moves to initially divest from Energy Transfer Partners, and Sonoco. Barnard University of Oregon, Columbia University have also made moves in response to a citizen uprising on this issue. Cities including Berlin, LA, New York and, closer to home, Redwood City, Sunnyvale, Campbell, San Jose, and the Santa Clara County Board of Supervisors are all being asked to consider divestment. Here in Palo Alto, we have demonstrated in the streets. We are holding meetings with Council Members, and we have a petition asking the City to divest from DAPL and to

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engage with financial institutions that have values aligned with ours. We hope that here at the City of Palo Alto we can agree to honor the treaties and to honor our shared climate by divesting from DAPL. Thank you.

Vice Mayor Kniss: Thank you very much. Our next speaker is Judy—are we getting close—Gittelsohn.

Judy Gittelsohn: Gittelsohn. Hi, I'm Judy Gittelsohn. Good evening. I am here to speak about a project proposed for 3877 El Camino Real where the Compadres Restaurant is. I have three points I want to make. The proposal has 61 or 62 underground parking spots. The traffic comes in from El Camino and exits on Curtner. My three points are the underground parking that you'll hear later—I think it's Item Number 10. The underground needs significant studying for that part of Palo Alto. They need to do more studying on that aspect. The number of cars are going to come in through El Camino and exit on Curtner. Curtner's a very narrow two-lane street that's already overtaxed. It really has one lane accessible if two cars are going. I think it will really impede exiting to El Camino. Further traffic study needs to be done. The third thing is the entrance on El Camino to the project is right after the Starbucks exit that, as a pedestrian, I am frequently—I walk in front of the exit from Starbucks. Every time I walk across the Starbucks exit, you are nearly hit by a car exiting Starbucks. This entrance to the project is right after that. I think further traffic studies need to be done on the entrance to this project. The project looks really good in terms of the number of units. I support building housing for Palo Alto. I just think the underground parking and the traffic routing are going to tax El Camino and Curtner in ways that need further investigation. Thank you very much.

Vice Mayor Kniss: Thank you so much. Next speaker, is it Patti? Is it Regehr?

Patti Regehr: Patti Regehr. Hi. I'm here to talk about the City's role and divestment in fossil fuels, which is a moral but also an economic issue. It's because some of the CDs that we have our money in as a City is going to expire in July. As a City Council, we have a moral obligation to look where we put our money. If you look at what happened in South Africa, the divestments throughout the world had a tremendous impact morally and economically on South Africa. You already heard a speaker talk about the Dakota Pipeline. As a City, we have money that is divested into the pipeline. As a City we have a moral obligation, since we're always saying how climate and energy is very important to us. I think we have a moral obligation as a City to stand firm and say, "We're not putting our money," and letting the corporations know, which money does talk, that we're putting our money

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somewhere else. I hope you look into that, about divesting, and how the City can still be prosperous economically and morally. Thank you.

Mayor Scharff: Thank you. Rita Vrhel.

Rita Vrhel: Good evening. I hope that you will consider divesting. That's a wonderful idea. Yes, money does talk. I was here tonight to ask when the dewatering rules and regulations for 2017-18 are going to be coming back to the City Council for a final reading and approval. Dewatering usually starts April 1st which, I think, is Saturday. I'm wondering what happens in the interim between now and the time that the regulations come back and are approved. Do the current projects falls under 2016, which were pretty weak, or 2017? Thank you.

James Keene, City Manager: Mr. Mayor, I'm not sure I can answer the full question right there. Very quickly, the next Council meeting, April 3rd, second reading of the adoption amending Chapter 16.28, to require testing, monitoring, and protective measures for temporary construction-related groundwater pumping, will be on your Consent Calendar. Next meeting, April 3rd.

Mayor Scharff: April 3rd. After we have the second reading, when is it effective?

Mr. Keene: Following the second reading of an Ordinance, it's typically 30 days.

Mayor Scharff: It'll be 30 days after to be effective.

Mr. Keene: I'll try to talk about what we do in that interim period of time in response to Ms. Vrhel's question offline.

Mayor Scharff: Thank you.

Minutes Approval

2. Approval of Action Minutes for the March 6, 2017 Council Meeting.

Mayor Scharff: Minutes approval, do I have a Motion? I'll move approval of the Minutes. Do we have a second?

MOTION: Mayor Scharff moved, seconded by Council Member Filseth to approve the Action Minutes for the March 6, 2017 Council Meeting.

Mayor Scharff: If you could vote on the board. That passes unanimously.

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MOTION PASSED: 9-0

Consent Calendar

Mayor Scharff: The Consent Calendar.

Council Member Wolbach: Move approval.

Vice Mayor Kniss: Second.

Mayor Scharff: Wait. Council Member Filseth.

Council Member Filseth: I'm going to vote in favor of the Consent Calendar, but I'd like to register a no vote against Item 7.

Mayor Scharff: At the end, after we approve the Consent Calendar, you'll have the chance to explain your no vote. Council Member—lights are lighting up. Council Member Fine.

Council Member Fine: I was going to move the Consent Calendar.

Mayor Scharff: We need a second.

Council Member Wolbach: Second.

Mayor Scharff: Council Member Tanaka.

Council Member Tanaka: Also no on 7.

Mayor Scharff: Also no on 7. Council Member Kou, did I see your hand up or did I ...

Council Member Kou: No on 7.

Mayor Scharff: No on 7. We have three noes on 7.

MOTION: Council Member Fine moved, seconded by Council Member Wolbach to approve Agenda Item Numbers 3-7.

3. Approval of the Human Services Emerging Needs Fund Policy Providing Oversight of Accepting, Reviewing and Approval of Applications to This Fund.
4. Approval of Amendment Number 1 to Contract Number S16164688 to add \$250,000 for a Total Not-to-Exceed Amount of \$300,000 With Municipal Resources Group for Professional Human Resources Consulting Services.

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5. Approval of a Contract With Artist Mary Lucking in the Total Not-to-Exceed Amount of \$100,000 for the Design Development, Fabrication and Installation of Artwork Associated With the Highway 101 Bike and Pedestrian Bridge.
6. Approval of Five Separate Professional Services Agreements for General Electric and Gas Services Over a Three Year Term With all Subject to an Aggregate Not-to-Exceed Amount of \$975,000, With: (1) Navigant Consulting; (2) Flynn Resource Consulting Inc.; (3) PA Consulting Group; (4) Optony Inc.; and (5) NewGen Strategies and Solutions, LLC.
7. Adoption of a new Memoranda of Agreement With the Palo Alto Fire Chiefs' Association and Resolution 9673 Entitled, "Resolution of the Council of the City of Palo Alto to Amend Salary Schedule for Managers and Professional Personnel."

Mayor Scharff: If we could now vote on the Consent Calendar. The Consent Calendar passes unanimously with three noes on seven. Council Member Filseth.

MOTION FOR AGENDA ITEM NUMBERS 3-6 PASSED: 9-0

MOTION FOR AGENDA ITEM NUMBER 7 PASSED: 6-3 Filseth, Kou, Tanaka no

Council Member Filseth: Thanks very much. Item Number 7 is the negotiation with the Fire Chiefs' Association. I want to vote against that. I believe that 15 percent is an extremely generous raise for a group that's already very well compensated. I think the Fire Department in general is doing a very good job, but I have a specific concern regarding the Chiefs' Association. Escalating fire service costs are a huge issue for Palo Alto and most other cities. We've been talking for a long time, a couple of years, about whether we really need to keep using expensive, sworn firefighters to do EMT work, which accounts for the majority of our service today. Whereas, most of our neighboring cities have already moved away from that model, here in Palo Alto we're still just talking about it. We need to move on with this, both for the residents and for the rank and file firefighters who want to know that the City's going to have money to pay their pensions when those come due. This is a management issue, and today's item is the management group we're talking about. In my mind, this is (inaudible). I think 15 percent here is excessive. I don't believe management slugged it out of the park this year, and I voted against it.

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Mayor Scharff: Council Member Tanaka, would you like to explain your no vote? Nope. Council Member Kou.

Council Member Kou: No, thank you.

James Keene, City Manager: Mr. Mayor?

Mayor Scharff: Yes.

Mr. Keene: Point of privilege here. I did just want to clarify that the Fire Chiefs' Association covers four battalion chiefs and one nonsworn officer position. It does not include the actual fire chief we talk about, which is an appointed position and is not subject to those negotiations. Just want to clarify.

Mayor Scharff: Thank you.

Action Items

10. PUBLIC HEARING: 900 N. California Avenue [15PLN-00155]: Appeal of the Planning and Community Environment Director's Architectural Review Approval of Three new Single-Family Homes, one With a Second Unit. Environmental Review: Categorically Exempt per CEQA Guidelines Section 15303(a) (New Construction or Conversion of Small Structures), Zoning District: R-1.

Mayor Scharff: Now, we come to our first Action Item, which is a public hearing on 670—do I have it right? I want to make sure I have the right order because the order has changed. Our first hearing is a public hearing on 900 North California Avenue, which is an appeal of the Planning and Community Environment Director's Architectural Review approval of three new single-family homes, one with a second unit. We have a Staff presentation.

Jonathan Lait, Planning and Community Environment Assistant Director: Thanks, Mayor. I'm just going to introduce Adam Petersen to present this item for you. Thank you.

Adam Petersen, Project Planner: Good evening, Mayor Scharff, members of the City Council. I'm Adam Petersen from the Planning and Community Environment Department. I'm here tonight to present an appeal of three homes at 900 North California Avenue. The project before you tonight involved the demolition of three existing, one-story homes and some accessory structures and the construction of three new homes at 900 North California Avenue. This project was reviewed by the Architectural Review

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Board on September 15th and forwarded to the Director with a recommendation for approval, which the Director signed on November 1st. An appeal was filed in a timely manner on November 15th, and the appeal was pulled from the Consent Calendar on January 23rd. That's why we're here tonight. A quick overview of the appeal concerns. The residents stated that they weren't noticed for the September 15th Architectural Review Board (ARB) meeting. They wanted to coordinate the construction activities in the neighborhood. They're concerned about the dewatering of the three lots simultaneously, ongoing monitoring and contact personnel, inadequate onsite signage for noticing, and a proposal for the shared driveways between Lots 2 and 3. As you can see, this slide shows you the location of the project. It's in a predominantly residential neighborhood. There are existing homes and accessory structures on the site. Again, the project would replace the existing structures with three new single-family residences. After the item was pulled from the January 23rd Consent Calendar for public hearing tonight, the applicant went back to the appellant, and they negotiated and talked about removing two basements from the project. Each lot or each home in this project had a basement associated with it. Again, the applicant said they would remove the basements from Lots 1 and 3, leaving the basement on Lot 2. The appellant indicated that the development was welcome provided there is no broad-area dewatering for the basement on Lot 2. Again, this is a quick site plan and overview. Lot 2, here, is on the corner of North California Avenue and Louis Road. This is Lot 1, the house on Lot 1. This is the house on Lot 3. With the applicant removing the basements from Lots 1 and 3, it results in no visual changes to the homes that are basically visible from public view. The streetscapes would remain the same. Our recommendation is that the City Council uphold the Director's approval of an Architectural Review application, thereby denying the appeal. The approval does include a condition that requires the removal of the basements from Lots 1 and 3. Thank you. I'm available for any questions from the Council.

Mayor Scharff: I just also wanted to clarify. My understanding was that the Ordinance that the City Council just passed, that's coming up for the second reading—the applicant agreed that would apply to it as well. Should we add that as a condition of approval if we approve it tonight because the Ordinance is coming in a week, but then it's 30 days after that to apply? I just wanted to get a sense.

Mr. Lait: The Ordinance that the Council will adopt on second reading will apply to this project.

Mayor Scharff: Do we need to make that a condition of approval or not?

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Mr. Lait: I believe it's already a condition of approval (crosstalk).

Mayor Scharff: It's already a condition of approval. Excellent. Now, we'll move to the public hearing. First, we have the appellant. The appellant gets 10 minutes, and the appellant is Beatrix Cashmore. After the appellant, we will go to—it's Greg Kwan [phonetic], I think, who is the applicant, as well as Roger Kohler. You will have 10 minutes between the two of you. Beatrix Cashmore, come on up.

Public Hearing opened at 6:12 P.M.

Nicholas Kaposhilin: There's actually two appellants, myself Nicholas Kaposhilin, and Beatrix. I'll start. Hi, there, good evening. I'd like to start by thanking the Council Members for your interest and seeing to it that the neighborhood concerns about this project have been given adequate public discourse despite the hiccups early on with neighborhood communications. I'd also like to reiterate what we as neighbors have said in the past. The neighborhood is generally supportive of redeveloping 900 North California Avenue, and we look forward to the improvements that these new family homes will bring to our neighborhood. Dewatering has understandably taken center stage in much of the public discourse on this project thus far. As the project is expected to move forward tonight, we would like to remind the applicant and the Council that other neighborhood concerns still exist for an extraordinarily large R-1 project of this scale. We as neighbors absolutely expect that proactive communication and engagement with the neighborhood throughout the project will be the only way to ensure that challenges with traffic, parking, and noise can be remediated effectively for all participants in this process. With regards to dewatering, in Staff Report 7705 which you have before you, it states that "following the Council's decision to consider the appeal, the applicant has reported meeting with neighbors and has modified the project to remove the basements for two of the three proposed homes." I'd just like to clarify that neighbors have had no communication with the applicant or his agents since December 2016. At that time, removal of basements was not discussed as an option. That's a bit apropos. It doesn't really matter. We're very happy with the outcome. Communication has been an issue on this project, and clear, open communication is really important. That said, we are very pleased that the applicant has elected to remove two of the three basements. This revision substantially addresses neighborhood concerns about massive scale, broad-area dewatering. However, given the unique soil water table conditions that exist in the Triple EI neighborhood and limited modifications to the Palo Alto 2017 policies related to dewatering, there are still some concerns. I will now hand over to Bea Cashmore to address this further. Thank you.

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Mayor Scharff: Thank you.

Beatrix Cashmore: Good evening. I would like to call your attention to the proposal that was sent to the applicant via Project Manager Adam Petersen on March 12th, which you all have in front of you. Proposal to the applicant property owner of 900 North California Avenue, the appellants will withdraw the appeal conditional to the acceptance of one of the following two options for the construction of the basement at Lot Number 2. First option, the use of a shallow cutoff wall which can have a depth of as little as 15 feet for the excavation of the basement in place of broad-area dewatering. The advantages of using this method include avoiding the cost of an enhanced geotechnical report upwards of \$10,000, avoiding the \$10,000 City fee for storm drain use plus the cost of ongoing monitoring and dewatering. If the water extracted within the cutoff wall is percolated back into the ground by use of a percolation pit onsite, there will be absolutely no risk threatening neighboring properties, no need to install a pumping station at the dewatering site, no weekly cost of capturing and trucking groundwater for various purposes such as watering parks and neighborhood yards. By demonstrating the effective use of the environmentally sustainable cutoff wall technology, the applicant will be rendering the neighborhood and the City a valuable service considering that in all probability this method will be required in 2018. Second option, if the applicant declines Option Number 1 and still chooses to broad-area dewater, he agrees to all of the stringent monitoring including surveying land elevations and marking structures on neighboring properties; obtain the enhanced geotechnical report; adhere to a drawdown of no more than 3 feet in the groundwater level at the closest neighboring properties, understanding that the underground clay layer when drying out will compress from 1 1/2 to 3 percent; maintain a consistent rate of dewatering that ensures the 3-foot drawdown level; discuss the location of piezometer holes with the neighboring property owners; share the results of the enhanced geotechnical report with the neighboring property owners. The appellants and the neighbors are pleased that there will be two less basements and, therefore, less dewatering in our neighborhood. We feel that the proposal we have made to the applicant is reasonable given that there are portions of the 2017 enhanced regulations that lack a lot of critical detail. The unresolved portion of this 2,275-square-foot basement construction comes down to three factors that are special to this neighborhood and unlike other Palo Alto neighborhoods. First, the groundwater in the immediate neighborhood hovers between 4 and 5 feet below surface. We know this because I've been measuring it for the last 3 months from my property, which is within 100 feet of the site. Today, for example, the water was at 5 feet 1/2 inch. Second, the underground clay layer is permanently wet and has never been dewatered and is vulnerable to permanent shrinking. For example, to show you I've brought some clay that

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we dug out of my property. When this was brought out of the ground, it had a consistency of wet sand. Now, you can see that it has changed rather dramatically. Can I ask you to please circulate this so that Council Members can look at it? Thank you. I'd also like to ask at this point if all the people who came to this meeting in support of our position please stand. Thank you so much. To excavate a basement, the amount of groundwater drawdown that will result from broad-area dewatering to a depth of 16 feet could well be between 9 and 11 feet. If a 3-foot drawdown can cause 1/2-1 inch of ground settle, then 10 feet of drawdown could more than triple this or cause 3.6 inches of ground settling. The language of the 2017 enhanced dewatering regulations regarding drawdown is not specific. There's no description of the impact of dewatering on the soils. The words ground settling or subsidence aren't used. The amount of drawdown that is considered safe is not quantified, and how many feet of drawdown that would put surrounding properties at risk is not indicated. I would like to ask what steps will be taken if the readings show probable damage and how will that be determined and what will happen next. Limiting the ground-level water drawdown at the closest offsite, adjacent structure to 3 feet is language that we borrowed from the 2018 regulations because it was simple and clear and also deemed to be safe. In conclusion, we further request that there be a designated contact person or persons whom we can quickly communicate with throughout the construction period. I think this has been mentioned. Many unanticipated situations or problems come up that can easily be dealt with if there is an open channel. I thank you so much for your time.

Mayor Scharff: Thank you. Now, we'll move to the applicant, who will also have 10 minutes.

Roger Kohler: Good evening. I'm Roger Kohler. This is Greg Xiong, the owner of the project. I had some planned talk, but I just have to say after the last meeting I dug through the archives in my office. It turns out I've done 100 homes with basements in Palo Alto. I guess I'm kind of an expert on basements. Everything that was mentioned ahead of time is probably true. In all the basements we've done, the only problem we ever had was when the contractor didn't pay attention and dug the basement into the neighbor's yard. That has nothing to do with the situation with the water and everything. I'm just kind of at a loss as to how to—it's just kind of a misnomer. These problems with basements, they just don't occur. The water gets pumped out. As soon as the pumping is stopped, the water goes back up and fills up. That's why, when we do concrete basements, we put an item in there called Xypex, which fills in with the concrete. If it gets wet, it's got crystalline agents which grow and seal the cracked concrete. Of all those basements we've done in Palo Alto, there was one, I think, we had to

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go back and patch a wall at one point. It's pretty straightforward. You dig the hole; we pump the water for a week or 2 weeks, and then we move on and build the house. All these things are, in my mind, not an issue. I could give you all the addresses of all—also, we did 16 homes with basements behind the Cabana all at one time, and there was no issue. That was 16 different houses next door, basement, basement, basement, basement. I'm just kind of at a loss to see why this is such a big concern, from my standpoint anyway. Greg, why don't you go ahead? We've got 1 1/2 minutes.

Greg Xiong: I am Greg Xiong. Dear Mayor and dear Council Members and dear public, I am Greg Xiong, the applicant. Thank you for listening to the presentation. We have prepared the slides, so I would like to show that one real quick of the slides spending a minute or two. Basically, thanks to the neighbor who have said that now the proposal is to do one basement on Lot Number 2, which is in the middle, in the corner of the huge lot because the lot itself is about 31,000 square feet. As you can see, my architect team has prepared this one. The red-shaded area is current basement, which measures at 80 feet from the nearest neighbor's property line. I believe it's Christy, her property for 80 feet. Measures almost 90 to Peter, his property. It measures 150, 170 or 80 feet from 928, which is Beatrix property. That by itself shows how far away the proposed basement to the nearest neighbors. I'm pretty sure the people here can make their own judgment including the experts and all the other discipline people. I just wanted to say a couple of things as owner, taking this chance. The project has gone through all the street review process in the past 3 years, since early 2014 to now. We passed all the Boards, Committees, Commissions, the review, as Adam had highlighted, and also it is highlighted in this 125-Page long, comprehensive project report. I thank the Staff for working so hard. This is truly above and beyond review process compared to ordinary project. We did take all the comments and factorize all those into the current design and to do the due diligence. I just want to say one more thing. When it came to a disagreement with (inaudible) regarding the basement, if you're going to dig down to approach (inaudible), we did work so hard including sending the attorney, who is also present, to work with the City Attorney to resolve all the issues in satisfactory matter and result. The second thing I wanted to say is I understand that the neighbor complained that there was lack of communication. Prior to the ARB meeting on September 16th, Staff attached to the certificate of mailing and it did—it's highlighted here; it's also in the report—send 200 or 300 cards including 928 and 936—I believe it's to Beatrix and Nicholas—to the address. Whether or not they received it, I have no assurance, but it was sent out twice in this report. Also, I did want to communicate with the neighbor—I have been talking with Peter and Christy since 4 years ago, 3 years ago. They can attest to it. For the other

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two neighbors, after this appeal was filed, I did invite these four neighbors come into my own house and in my own family room, the dining room. We sit down with the witness here to discuss the issues here, the neighbors' consents. Maybe if I have done it on a weekly basis, every week invite the neighbors to my house, but I don't think I can really afford to do that. The last thing, I don't believe we have violated any Code. I believe we're entitled to three basements, but to show our ultimate cooperative spirit, we voluntarily propose to cut two basements out of the three basements. That's what you're seeing now. With that, Roger, you want to say anything? Blake wants to.

Roger Kohler: I just want to wrap up. We're almost 4 years on this project, and we'd like to move forward and get the houses in and be done. Greg is very fast at building homes, so they'll be done before you can think about it. We're looking forward to moving forward.

Vice Mayor Kniss: Roger, could I ask you one question before you leave? We know there are many basements throughout the City, especially the so-called California basement. That's not what you're ...

Mr. Kohler: What's a California basement, just out of curiosity?

Vice Mayor Kniss: The ones like I have. They're mostly dirt. They were made to put a furnace in or something. They're not a finished basement.

Mr. Kohler: We've worked on a bunch of those where we jacked up the house and put a whole basement under it.

Vice Mayor Kniss: You're talking of 100 finished basements you've done in Palo Alto, correct?

Mr. Kohler: Yes.

Vice Mayor Kniss: Usable, meant for some purpose other than storing the furnace and suit cases.

Mr. Kohler: They're usable for wine rooms, media rooms, stepped media rooms, all kinds of things. They're an amazing property.

Vice Mayor Kniss: I just wanted to be sure that we were discussing the same kind of basement. I appreciate it.

Mr. Kohler: I was certainly surprised when I saw that number because I had never really paid attention to it.

Vice Mayor Kniss: I am too.

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Mayor Scharff: Now, we'll return to the public. You'll have 3 minutes. Our first speaker is Gordon Wang, to be followed by Elisabeth Brown.

Gordon Wang: Dear Mayor and Council, my name's Gordon Wang. I live in Palo Alto to bring up the two case. I live here for 20 years. This is the first time I speak in public like this. As a second language speaker, I'm very nervous. I have two sons. The first son, Michael Wang, is 4 years ago, stand up here to talk as (inaudible) senior president, talk about (inaudible) project at (inaudible). He get back very high (inaudible). After 2 years, my second son, Jim Wang, come here to talk about how can he get funding from you to set up Maker X in Cubberley Center. Today, Cubberley Center become really, really property place for (inaudible) you know that. Thank you for your support. Because his impact, he got accepted by Stanford University. He expended that energy to East Palo Alto, got public support from (inaudible) foundations (inaudible) new model for East Palo Alto students, have them to do activities like Palo Alto students. The reason I come here because my two boys yesterday I walk them to the California Avenue and they point out why so many years later this environment so (inaudible). I say, "I hear story. Tomorrow there's meeting. They want to eliminate basement." They say, "What? You go there to talk." I say, "I can't. I'm nervous." They say, "You go." I respect the Mayor; I respect the City Council. They are cool people; they are smart people. If you make your point, they going to be on your side. That's why I'm here to talk about basement. Two years ago, I was remodeling my own house. I go to the City permit department. Because time and money constraint, I didn't plan to make a basement. The City Planning Department people tell me you could be very smart in your location to make your basement. In Palo Alto, the land is limited. It's very valuable. If you can leverage the underground space, it makes people live comfortable. That's a Smart City, smart idea. The City officer encouraged me to do it. I didn't do it unfortunately. In fact, today my next door neighbor are making the basement. Today, on (inaudible) street. I didn't stop them. I say do it, that's the smart way to make Palo Alto comfortable, make Palo Alto cool City. I think all Palo Alto citizens are smart people. You cannot (inaudible) that idea without scientific evidence. If this is (crosstalk) ...

Mayor Scharff: Thank you.

Mr. Wang: Don't stop—don't eliminate basement. My two sons tell me come here, talk about basement.

Mayor Scharff: Thank you.

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Mr. Wang: I hope City (inaudible) Mayor, you'll make a great decision. Make Palo Alto cooler and smarter. Thank you.

Mayor Scharff: Thank you. Ting Yao to be followed by Christy Crews. I skipped Elisabeth, sorry. Elisabeth Brown. My fault.

Elisabeth Brown: I flew up here from Orange County because I'm part owner of one of the houses in Triple El. It's been in the family since 1958, and we have a pool that we know floats on the water in the aquifer. I had concerns about cracking to that pool. I do support the new condition of approval on this property, that they use the 2018 regulations. That's the best way to go. I couldn't understand broad-area re-watering. Orange County gets 13 inches of rain on a good year. We don't throw our water away. We put it into this fantastic groundwater recharge area that we have. We have 5 years of water under northern-central Orange County, and we horde every drop that we get. I looked at the amount of water from the Staff Report. If you were dewatering for 10 weeks, it's something like 25-30 million gallons. That turns out to be 92 acre feet. That's over 200 years of water for our property. It just doesn't make any sense for the neighborhood, doesn't make any sense for the community. You risk salt water intrusion. That's one of the reasons we have such an aggressive policy down south on the coast. I think you're headed in the right way. Caissons have been around to build piers for bridges. When you're putting in a bridge, you don't dewater the entire river; you don't pump out the Bay. You just put a caisson around it. I'm in favor of that. I hope you do the right thing. Thank you.

Mayor Scharff: Thank you. Now, Ting Yao to be followed by Christy Crews.

Ting Yao: Good evening. Thank you. Thank you for your time on this matter. I'm a neighbor on 2290 Louis Road across the street from the property. I'm here to support the construction of the project. First, I want to say that I'm not new to the construction of the houses. We rebuilt our house recently, and we're able to enjoy it to the extent that we can. There's another house that's also on 2230 Louis Road across from the property that has a basement, also a few houses from us. We did not see any disruption beyond the level of normal construction projects. Also, I want to say a few words about the neighborhood. We pass by the corner of Louis Road and North California every day. It's a big intersection; however, the huge lot got three really old houses that doesn't serve the neighborhood very well. Weeds grow in the middle of the lot surrounding a small tear-down shed, and the other one or two houses have been empty for a long time. It's an eyesore for the neighborhoods, and there might be some safety concerns. We're glad that the owner has proposed to build three single-family houses

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that will improve the neighborhood in many ways, such as street and sidewalk appearance and neighborhood house value appreciation and some safety improvement. In summary, we look forward to this project to get started soon and completed in a timely manner. Thank you.

Mayor Scharff: Thank you. Christy Crews to be followed by Blake Hajek.

Christy Crews: Hi. My name is Christy Crews, and I live at 2221 Louis Road. My family has lived there since 1952. I have two parcels that border the properties that are going to be built upon in the 900 North California project. I do welcome the coming improvements to these properties. The main concern that I wanted to address, which has been brought up again, is regarding any damage that could be caused to my property by dewatering of adjacent property. It's certainly good that the two basements are now not going to be built, but I just was still concerned a little bit. I'm not sure it's been pointed out anywhere other than Ting Yao just mentioning that the house directly across the street from me, 2230 Louis Road, was dewatered from May 2015 to October 2015. The footprint for that basement is quite a bit smaller than the proposed basement at 900 North California. Yet, it still managed to cause the adjacent house to it, at 2234 Louis, to lose one of our big City Modesto ash trees, which was just removed in December, as well as the driveway adjacent to the dewatered property now tilts downwards in the direction of the new home. Other Louis neighbors across the street from 900 North California street project at 2174 Louis had five trees removed in its backyard, and 2194 Louis had a tree removed from its backyard after dewatering occurred on 2151 Barber Drive, which their backyards bump up against. My concern here is I have four towering, some of which are 80 feet, Canary Island pines, a giant redwood tree, an extremely large eucalyptus tree that are all on the adjacent property. I'm concerned. I talked to an arborist who said their roots are 3-5 feet deep. I'm concerned if there was any damage that occurred to them or they became diseased, would I be responsible for removing them or, if they fell, would I be responsible for that. That was a main concern I had in terms of the water being removed. I know it gets pulled down quite a ways away. The other thing—let's see. Just in terms of that, the construction of the basement, if it used the cutoff wall construction, then none of that would be a concern anymore. That was my main concern, other than I'm hoping that someone is going to be monitoring all the traffic and all the problems at that corner because on a daily basis, at least four times a day, it's a very high-density area. Thank you very much.

Mayor Scharff: Thank you. Blake Hajek to be followed by Rita Vrhel.

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Blake Hajek: Hello. Thank you, Mayor, Vice Mayor, Council Members, for your time. I appreciate it. My name's Blake. I'm a local realtor. I work over here on Hamilton and Cowper. I'm also a resident in Palo Alto. I also happen to have the unique experience of going to school on the Peninsula in Burlingame during the 2003, 2004, and 2005 budget cuts to the schools. I remember watching teachers get fired, programs get cut, community's confidence drop. When I was looking at this project and seeing that it initially was set out to be three basements, I decided to put on my realtor cap. I ran a conservative cost analysis of the unrealized tax revenue to the City and the schools per year based on the loss of salable 6,588 square feet of basement space alone, separate from the above housing development. At a conservative estimate for this square footage based on a 1.25 percent annual property tax rate, this comes out to be at least \$115,000 a year of lost revenue. If you amortize this over 13 years being K-12, that's over \$1.5 million of lost revenue to the City and the schools. I know in times like this when things are great, that could be a little more than an annoyance. When times are bad, people get fired, the community loses confidence. I'd like to think to some degree the future of our students is compromised. Again, those numbers are \$115,000 a year without appreciation for property tax basis and \$1 1/2 million over the next 13 alone, just for the basements. Thank you.

Mayor Scharff: Thank you. Rita Vrhel to be followed by Stephanie Munoz.

Rita Vrhel: Thank you for letting me speak again. I think what I'm hearing the common factor is everyone is trying to protect their property. The developer wants to maximize his investment. The people that appealed and have spoken to you want to save their foundations from being cracked, their swimming pools from being cracked, and their trees from being killed. It's an interesting idea. You can't blame any of the people who have spoken here. What I'm trying to avoid is another Rite Aid situation where dewatering occurs and massive consequences unforeseen by anyone occur. The article on Rite Aid was sent to you. This is a large lot, virgin clay soils surrounded by concrete-slab houses. It's only right that everyone is concerned. It was interesting that Mr. Kohler said that he's only had problems with one basement. I'd really like to ask which basement that was because there's been another problem with a basement of his recently. On the corner of Newell and Dana, the waterproofing failed. There was a request for an emergency pumping permit into the storm drain. This was confirmed by Phil Bobel recently. I'm not sure if the pumping has stopped or not. What happens if the waterproofing on this basement fails? The water table with the recent rain was 3 feet, and the water table is probably usually 4-5 maybe even 6 feet. What happens then? It's going to be interesting. I really would encourage you to require the builder use secant walls or correct

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broad dewatering methods, which draw the water down low. I don't think the neighbors are saying you can't build these buildings. I think they're saying please build them in a way that is not going to cause damage to our homes. At the same time, I wish the City Council at some point would look at the notification and the posting requirements or the methods that occur. It seems like this whole appeal started on the fact that no one was properly noticed. That has caused a significant delay in the owner maximizing his profit. Thank you.

Mayor Scharff: Thank you. Stephanie Munoz to be followed by our final speaker, Miriam Sedman.

Stephanie Munoz: Good evening, Mayor Scharff and City Council Members. For the past couple of years, we people down in the audience have been hearing about greater density around public transportation. It has been talked up and loudly applauded by the powers that be, by the State, by the planners and met with icy disapproval from the people down below. I believe that's because of the odious practice in the past few years of redevelopment in which ordinary people's nice homes were taken over and the property given to redevelopments just so that more money could be made and more taxes. I'm very much against that and very much for the practice of people being allowed to keep their own homes. However, I see that these houses are being planned for California Avenue where there's a much better possibility of public transportation. In the past few weeks, I've had myself a difficulty with automobiles. I had two flat tires in quick succession. I had a low idle. I had all kinds of problems. I've been investigating public transportation. It's not all that bad if you're near the 22. I can get down to San Jose; I can get back. I don't have to drive, which is a good thing because my license was suspended. It was not my fault by the way. Coming back on that bus, the 22, I did notice around midnight that one feature that was very sad was making the homeless people get off the bus and then get back on again, which seems really cruel. This is the place where you should think about the 14 people that were not allowed to live in Palo Alto; although, they were willing to pay market rate and put all their monies together. You should have a policy of something that looks like a single-family house, a nice mansion, something that looks like Ricki's, something really beautiful but allow separate units inside it to rent rather than condominiumize [sic]. That's more suitable for older people especially because they don't drive. Where you have the possibility of public transportation and lots of it, you should give much more serious thought to having beautiful, small, very small units. Thank you. For people who don't drive.

Mayor Scharff: Thank you. Miriam Sedman.

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Miriam Sedman: Hi, I'm Miriam Sedman. I have the property next to Christy, so we're about 200 feet from the new basement. I'd like to say thank you for the regulations for 2018. It's great. Thank you for the owner for reducing from three basements to one basement. I want to remind everyone it is still 25-30 million gallons, and it takes months to pump. It's all dependent on where the basements are. We know in this particular area the water is very close to the surface, 4-5 feet. We just think using new technology to dig the basement is a win-win for everyone. It's a win-win for the owners, for everyone on the neighborhood. It's a shorter amount of time. I think we've all come to the conclusion that it's a better idea to do it. Unfortunately, I know you want to get started, and there may be this issue. We really just believe that the new technology is the way to go. Thank you for this good discourse. Hopefully, you can put this in place sooner than later. Thank you.

Mayor Scharff: Thank you. Now, the appellant has a few wrap-up words if they wish, up to 3 minutes if the appellant wishes to speak again. Seeing no appellant, if the applicant would like to do any wrap-up, that's fine as well for up to 3 minutes. Do you wish to speak for up to 3 minutes again or are you good?

Mr. Xiong: Thank you, Mayor, for allowing us to sum up. I just wanted to—first, I do want to thank the neighbors for saying that they welcome a new development in this neighborhood. I'm really encouraged. Thank you again. I wanted to—I have already talked about the project will bring improvements to the neighborhood, the added revenue to the schools, a one-time fee, and the other things. I don't repeat it. I do want to comment on one thing. We talked about this secant wall, the (inaudible). Even though I have an engineering background and I got my degrees from there, I do not want to pretend to be any expert in this field. Number one, by searching statewide all the basement rules, so far none of them is requiring secant wall for the residential projects. You could say there's always the starting point, but I will put that one aside. I just want to stay to the fact. Number two, I have actually heard of this secant wall proposal. I went out to ask multiple contractors to give me a bid. By their rough estimation, 3 feet wide, 20, 30, 15 feet deep, whatever, surrounding, that amounts to on one lot, one of these three houses on average, this amounts to hundreds to a thousand and tens of the concrete and I-beam steel to be buried down underneath the lot, which equals to hundreds, could be 500 truckloads of material to be (inaudible) before excavation gets started. That will permanently change the lot, the neighborhoods for centuries to come, not only 2 weeks. It's not environmentally friendly. Lastly, I just wanted to say that I believe the Council is going to make the best decision either way based upon the facts, (inaudible) and the merits of the proposal but not

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based upon unreasonable request, pure feel factor or misled information. Thank you.

Roger Kohler: Just one last referral. On the secant wall, I don't know if he made it clear. There are I-beams that get put down. There are steel panels that get put down. We're talking 20 feet or more. All that stays. Once you have that in the ground, the water can't go through where it used to go. It has to go around. To me, it doesn't make a lot of sense, and it's very expensive.

Public Hearing closed at 6:55 P.M.

Mayor Scharff: Thank you. Now, we return to Council. Before we do ...

Vice Mayor Kniss: You have two more.

Mayor Scharff: No, I don't. Before we come back to Council for questions, comments, Motions, we need to do any disclosures. Tom, Lydia, nope. Liz. I have some disclosures. I spoke with Roger Kohler on at least one occasion that I recall. I didn't learn anything that we didn't talk about today. I also had an email exchange with the appellant on this property. I'll provide those emails. I think they're on City email, but I'll provide them to the City Clerk if people want. I don't think there's anything that wasn't publicly disclosed here today. Anyone else? Council Member Wolbach.

Council Member Wolbach: Let me start by just making a quick comment. I heard—I believe it was Mr. Wang mention that he was a bit nervous when he was speaking here. I don't know if it would provide any consolation, but I still get nervous every time I speak in public, even on the dais. You're not alone. This project has come to us at a time when we're in the midst of a multiyear and, I think, a very good conversation about the best practices for designing, approving, and constructing basements in a manner which is environmentally responsible and also respectful of the neighbors and any concerns they have about their own properties. What we've seen over the last couple of years and ongoing—we're learning more every single year, and we're modifying our City policies in a responsible way according to what we learn. In the past, in most parts of Palo Alto we had very little restriction on basements. We've been incrementally changing that each dewatering season. I think it's worth pointing out that this process of education of the City Staff, the community, and the Council has really been led by citizen research and activism. I think that's the context that we're in, hearing this particular project. I actually made the Motion to pull this project from the Consent Calendar the last time it came to us because I had some serious concerns and some questions, specifically relating to the impact of dewatering for three basements all right next to each other in this

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neighborhood. I would personally prefer to see new technology used at this site for this project as we go forward. I think we're still learning more about that, and I don't think we can mandate that for this project. That said, things have changed. There's been a new proposal brought to us. The proposal we're hearing now is quite different because it is not three basements but only one. That was something I did not anticipate happening, but that has been offered by the applicant. The new proposal significantly addresses my concerns and my questions. I'd actually be happy to move the Staff recommendation for this project.

Mayor Scharff: Would that include the condition of approval that Staff suggested?

Council Member Wolbach: Yes, that would include the conditions of approval that Staff has worked out.

Vice Mayor Kniss: I'll second your Motion.

MOTION: Council Member Wolbach moved, seconded by Vice Mayor Kniss to:

- A. Adopt a Record of Land Use Action, thereby denying the appeal, upholding the Director's approval of an Architectural Review application based on a modified design removing two of the three previously proposed basements; and
- B. Find the proposed project exempt from review under the California Environmental Quality Act.

Mayor Scharff: Would you like to speak to your second? He already did.

Council Member Wolbach: I don't have much more to say. I appreciate both the applicant and the appellant and many members of the public coming to share their concerns about what the pros and the cons are of moving forward with this project, either in its former version or in its current version. There are pros and cons either way. On balance, considering the property rights of the owner and also the changes that have been made in the new proposal and the conditions of approval that are included in this as we would move forward, it's the right thing to do, to approve it in this form with those conditions in place.

Mayor Scharff: Vice Mayor Kniss.

Vice Mayor Kniss: I would certainly underscore some of what Council Member Wolbach has just said. In particular, I'd like to just go back a little

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way. Rita, I don't know if you have your Colleagues here tonight or not. It certainly began with a group that recognized a big problem in the community, a major issue, that dealt with groundwater. Certainly in many neighborhoods—somebody just mentioned it tonight—the water was being drained for several weeks at a time, sometimes months. It was very alarming. I know we heard both sides of the equation. It really was alarming. What has happened instead is the groups came together. I think that is what's so important about this. Two groups that were on quite different sides, both the groundwater group, Save the Groundwater, and also one of our leading architects, came together at a policy meeting we had and shared this with us. It's led us to this really good decision tonight, where there is not an entire Council filled with one side or the other of people who disagree with the kind of decision that, I think, will be made tonight. Thanks to a whole community that came together on an issue, has come up with a solution, and one that seems to be very workable—Roger Kohler spoke about it very articulately—and leads us in a whole new direction regarding groundwater. This is the very first proposal we've had that actually is going to be using this solution. We'll get to study it while it's actually under construction, get a chance to really look at this in reality. For all of you who hung in there and pursued this, I really appreciate it. I'm supporting Council Member Wolbach's Motion and pleased to do so.

Mayor Scharff: Council Member DuBois.

Council Member DuBois: I have a question for Staff. It wasn't brought up tonight, but it was brought up before, and it's in the Packet. What process do we use when we send out notices to neighborhoods? How do we verify that they're actually sent?

Mr. Lait: The Municipal Code sets forth the noticing requirements, whether it's a mailed notice or a newspaper notice and, if it is a mailed notice, what the radius is. That's the process we follow. In this particular case, there was a 600-foot mailing required for the property. We conduct that in-house. We prepare the notice. It is sent down to our print shop. We produce these on cards, and those cards are then input into the U.S. mail area. Once it's there and leaves City Hall, we don't know—we presume that it's delivered. Certainly, we've heard instances where people have not received notice. Whether that's mail delivery or it gets caught up with other mail that's provided, it's hard to say.

Council Member DuBois: It's sent bulk rate as a postcard?

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Mr. Lait: I don't think it is sent bulk rate. I think it's sent first-class mail. At bulk rate, it doesn't get a priority mailing. I think we send it out first class.

Council Member DuBois: Do we send one to ourselves to know that ...

Mr. Lait: We do, yeah.

Council Member DuBois: For these, did we get one?

Mr. Lait: Yeah. When we hear complaints or concerns that noticing hasn't been done, we go back and check—we have a spreadsheet that tells us all the properties that were noticed. We have a list of all the addresses that received a—had a card printed on it. We have that in our administrative records for every project, a list of properties that were addressed.

Council Member DuBois: For this one in particular, do we know that the City got its copy through the mail?

Mr. Lait: We did get it.

Council Member DuBois: I appreciate the willingness of the applicant to reduce the number of basements. Again, we haven't talked about it much. My biggest concern is why did a huge number of people say they didn't get the notice. It's not agendized tonight, but it might be something we might want to look at in Policy and Services, the process for notices, the form of the notice. Maybe it looks too much like junk mail. Are there other ways to verify that people actually receive these notices? When this came to us before, it didn't seem like it was just a few people. It could be the Post Office lost a bunch of them. I don't know. I guess I would make a friendly amendment, if we can do this, that we ask Staff to place on the agenda a review of the public notification processes.

Mayor Scharff: Would that be for Policy and Services?

Council Member DuBois: Yeah, for possible discussion by Policy and Services Committee.

Mayor Scharff: Not on Council agenda, but on (inaudible)?

Council Member DuBois: Yeah.

Mayor Scharff: You're Chair of Policy and Services (inaudible).

Council Member Wolbach: I actually just wanted to check with City Attorney. As Council Member DuBois indicated, not sure if that's agendized.

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I'm fine with having that be placed on the docket when we have an opportunity in our schedules to talk about it in Policy and Services. I just want to make sure it's an appropriate thing to include in this Motion at this time.

Molly Stump, City Attorney: Obviously you can't take any action on that item tonight. You can raise the topic and ask that it come back to Council or to a Committee at a future time if you'd like to do that.

Council Member Wolbach: I guess what I'd suggest is I don't think it's the appropriate thing to place in this Motion at this time. I've heard the message loud and clear, and I'm definitely happy to work on making sure that happens.

Council Member DuBois: One thing the City Attorney said it is—I'm asking that it be scheduled on an agenda. If it's not considered friendly ...

Council Member Wolbach: That's fine. We can add it to the Motion.

Mayor Scharff: Vice Mayor Kniss, is that all right with you?

Vice Mayor Kniss: Yes. That's all right to the maker.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion, "direct Staff to schedule an Agenda Item for the Policy and Services Committee to review the City's public noticing procedures." (New Part C)

Council Member DuBois: Thank you, guys.

Mayor Scharff: Council Member Kou.

Council Member Kou: I have some questions actually. Does the basement—is it true that they do bring in revenue to the City in building one?

Mr. Lait: There is a—when properties are redeveloped, the County Assessor's Office will reassess the property, as I'm sure you're familiar with. The square footage that the house has available to it does count toward that Assessor's evaluation. There is a percentage that is applied. Yeah, there is tax revenue generated by increased floor area.

Council Member Kou: Increased floor area above ground or below ground?

Mr. Lait: I don't know how the Assessor's Office does it specifically, but we make a distinction as far as what gross floor area is in terms of our zoning regulations and where it can and cannot be built. We do not count in

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residential areas the gross floor area. I don't know if the Assessor would count that as part of their reassessed value of the property or not.

Mayor Scharff: I'll answer Council Member Kou's question. Owning a large basement myself, I can tell you that I definitely pay property taxes on it.

Council Member Kou: I'm sorry?

Mayor Scharff: I definitely pay property taxes, significant property taxes, on it.

Council Member Kou: You do?

Mayor Scharff: I do. They treat it the same as any other part of the house.

Council Member Kou: Somebody said that there was public transportation that goes to this location. Is that so?

Mr. Petersen: There is a bus stop that goes to the area. I will say this. The project conditions of approval do require a construction logistics plan to take into account pedestrian control, traffic control, truck routes, material delivery, contractors parking, onsite staging, and a lot of other measures to address that.

Council Member Kou: I'm sorry. I didn't catch that.

Mr. Petersen: There is a condition of approval that addresses construction logistics for this project. It addresses everything from pedestrian control to traffic control to truck routes and materials delivery. It's a long list.

Mr. Lait: I'll take a look and see if there's a bus route on the street.

Council Member Kou: I'm sorry. I missed that again.

Mr. Lait: I'm looking to find out if there's bus access—I believe your question is, is there a bus route.

Council Member Kou: Public transportation, right.

Mr. Lait: On California and ...

Council Member Kou: North California, right, at that location, close by.

Mr. Lait: I'll pull up the routes and see what we have.

Council Member Kou: I guess I was kind of perturbed when somebody said that the planning—when he was looking to build a basement, the Planning

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Department actually encourages that people build basements. Is that something that our Planning Department does?

Mr. Lait: No, we don't encourage property owners one way or another as to how to build. We advise on what the regulations are and how to identify challenges that might be there and help applicants get through the process where we can.

Council Member Kou: Thank you. I really hope so. I'm really glad that we have the current dewatering regulations in place. If that's the case, then we're really using up and wasting a lot of our City's natural resources. At the end of the day, when I'm listening to some of the comments from the general public, the point is missed when we're talking about what we're building and not really taking into consideration our natural resources, one of them being water after having been in drought for such a long time. As the appellant has passed around that jar of clay, it's very apparent that, after the water is taken out of it, it does become difficult for it to reabsorb. I'm not an engineer, and I'm definitely not a geologist. It does show that there is an effect on our soils. I do have to say to the applicant I truly appreciate and I'm thankful to you for taking into consideration basement building and actually reducing the number of basements that you had originally wanted. That is a sincere effort, and I appreciate that. I do want to say that in terms of the logistics plans, I would really hope that our Code enforcement steps up and makes sure that street, North California Avenue, which I also believe is a bicycle boulevard or a Safe Routes to School street, is absolutely monitored and that the trucks and all the construction vehicles or users are kept to their plan. I know there's a lot of children that use that. The last thing we want to do is be in conflict with our own Ordinances. Also, on Packet Page 448 where it talks about noise and also 20 and 20D, where the notices are supposed to be posted, I know that the construction site—they have a quality control person which complaints are supposed to be directed to. I also would like to see the City's Code enforcement office, not Palo Alto 311 by the way, phone number as well Palo Alto PD number put up on there so that it's easy access for people to direct their concerns. Logistics plans are going to be—will those be available to the public so that we know what we're in for? I don't know if I need to make a Motion to that, to add into your Motion. If I may make an Amendment to add into your Motion ...

Mayor Scharff: What's your Amendment? You have to state it clearly.

Council Member Wolbach: Could we let Staff respond to the question before we move to Amendments? I'd like to hear some explanation about that.

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James Keene, City Manager: The question isn't about the Motion itself, whether there should be a Motion or not. I would leave that to the Chair.

Mayor Scharff: Can you restate the question? Were you asking Staff to answer a particular question or not?

Council Member Kou: The rules and regulations and also the notice of where to file complaints, is it possible to have notice on the property, on the construction fencing, showing what number to call? I know they have a number for their own coordinator, but I'd like to see something from the City.

Mr. Lait: That's the question for me to answer? There could certainly be a condition imposed upon the project that requires, as a part of the condition of approval, there be a sign posted on the construction fence that identifies who to contact in the event of a complaint. Sure.

Council Member Wolbach: Would we need to include that in the Motion for that to happen or is that something that would happen anyway?

Mr. Lait: I don't think that's part of our typical process. If that's something you wanted to highlight, I'd make it a Motion.

Council Member Kou: May I add that in?

Council Member Wolbach: I would accept that as friendly if you want to clarify the wording.

Council Member Wolbach: If you could clarify the wording, I'd be happy to consider that as friendly.

Council Member Kou: Include notice on construction site with Code enforcement contact number or Palo Alto ...

Mr. Lait: I think what we would do is identify the appropriate City personnel to reach in the event of some kind of issue or concern. Code enforcement isn't typically involved in active construction projects. It's more of our building permit. We understand the sentiment, and we can make sure that the notice has the right contact information.

Council Member Kou: Thank you.

Mayor Scharff: Have you looked at the language? Do you accept that, Council Member Wolbach?

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Council Member Wolbach: I haven't seen the language yet, so I want to see what that is. I'm probably going to accept it as friendly. That looks okay to me.

Council Member Kou: If I might say one last thing.

Mayor Scharff: Let me just check to make sure Vice Mayor Kniss ...

Vice Mayor Kniss: Yes.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion, "include notice on construction site with appropriate City contact information for complaints."
(New Part D)

Mayor Scharff: Go ahead.

Council Member Kou: Thank you both and Mayor. Lastly, I just want to encourage the applicant to really keep the community, especially the residents close by, keep up the communication. That's very important. In the long run, I think you'll find it a lot more easier when you keep the lines open. Again, thank you for reducing the number of basements there. Good luck.

Mayor Scharff: Council Member Fine.

Council Member Fine: Thank you, Mr. Mayor. Thank you to Staff. Thank you to the applicant and also the appellant and all for coming tonight. I'm glad you all can reach some consensus. However, I've heard a few comments tonight up here on the dais that are a little concerning to me, because I think they may send the signal to the public that this Council has an agenda or a position on basements. It's my belief we should be agnostic on that issue, particularly on design issues and particularly around private residential development. This item tonight is not for us to say we want more basement space or less basement space. It's to weigh the merits of an appeal and make a judgment on it. I just don't believe we're a design body up here. That's all. Thank you.

Mayor Scharff: Council Member Holman.

Council Member Holman: Thank you. Just a couple of questions. Language on Packet Page 446, Item 3, talks about construction of the proposed project to comply with the City's most recent policies and Ordinances related to site dewatering including compliance with the City Council Ordinance adopted on March 7, 2017. I want to check in on the word adopted. We voted on it, but

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is the right word adopted because it has not gone into place? I think of adopted as being when it actually is enacted. Is the word adopted correct?

Ms. Stump: That is technically correct. It was adopted on that date. It will be effective 30 days later.

Council Member Holman: Adopted means the same thing as voted on?

Ms. Stump: On second reading.

Council Member Holman: The second reading hasn't happened.

Ms. Stump: Adopted technically refers to the second reading.

Council Member Holman: We need a different word, I think.

Ms. Stump: We can adjust the language. It will probably say adopted on first reading. I think the point is to be clear what it is that's going to be required, not a question about whether it actually will apply. We'll probably say adopted on the first reading.

Council Member Holman: If that's not inconsistent with law.

Ms. Stump: In what way is it not consistent?

Council Member Holman: If we say adopted on first reading, is that (crosstalk) the attorney.

Ms. Stump: That allows everyone to look up that night's agenda and see a first reading of an Ordinance and understand exactly what the Council did. It doesn't change the effective date of the Ordinance, which is 30 days after the second reading.

Council Member Holman: Understood. You'll make sure the language there is appropriate. Thank you for that. The other question is a question that was raised both by the appellant and by Save Palo Alto's Groundwater, the level of the water table at this location. Does the City have any experience in monitoring the level of dewatering on sites that could be applicable to this site so we don't end up in a situation where the groundwater is not recharged?

Mr. Lait: I believe that is addressed in your Ordinance that you adopted—the one we were just referencing on first reading. I believe one of the standards that is a requirement, that the Council added, was that there be frequent reporting of measurements of the adjacent properties. I can pull that up here.

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Council Member Holman: It's reporting of the level of dewatering. I guess the question in this particular site, because the water table is so high, is the question or the request here. My question is—the water table is lowered no more than 3 feet at the property boundaries. We measure it, but do we do anything about it other than measuring it in the Ordinance that the City Council voted on?

Mr. Lait: I'm sorry. I apologize for not being the most involved in this particular issue of dewatering. As I understand it, the Council did set forth some minimum standards for how much water can be withdrawn during the pouring of the slab for the basement, a depth of 3 feet there. Once that slab has been poured, there's a provision to go up to 1 foot below that depth. Then, there's the requirement for ...

Council Member Holman: Isn't it 1 foot below the depth of the basement depth?

Mr. Lait: Of the basement depth after the slab has been poured.

Ms. Stump: If I could step in here just for a moment?

Council Member Holman: Please.

Ms. Stump: It's important on this issue that the Council adopt and apply a consistent set of standards. You did just adopt an Ordinance, and you'll read it on second reading. The conversation is informational in nature; although, we weren't really prepared to go into the details again of the dewatering item tonight. We can look that up. In terms of any adjustments to the dewatering program and set of regulations, those probably need to be made through the Ordinance or through the implementing regulations and applied to all sites that are similarly situated.

Council Member Holman: Thank you. I did want to say I appreciate that the applicant did change from three basements to one. Appreciate that.

Mayor Scharff: Council Member Filseth.

Council Member Filseth: Thanks very much. One of these lots is nonconforming, right?

Mr. Lait: Yes. The Council approved a parcel map earlier this year for one of the lots to be larger.

Council Member Filseth: What's the Municipal Code guidance on building houses on nonconforming lots?

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Mr. Lait: I'm sorry. For doing what on ...

Council Member Filseth: For building a house on a nonconforming lot, what's the Code say about that?

Mr. Lait: It may be different in different districts. For the R-1 area, you can build a house on a substandard lot or a lot that even exceeded the maximum standards.

Council Member Filseth: It looks like the existing houses on it are maybe a total of 4,000 square feet or something like that. It looks like it's actually one big one and a couple of cottages or something like that.

Mr. Lait: It looks like we don't have that readily available, but we can look up that information if that's needed.

Council Member Filseth: The replacement ones are between 3,000 and 4,000 square feet plus an ADU, so it's going to be like 11,000 square feet or something like that?

Mr. Lait: Yeah, Council Member. I'm sorry. I don't have the existing square footage, unless Adam has it here.

Council Member Filseth: I sort of feel like, when we subdivided the original lots, the dialog at that point was we're just subdividing the lots; we're not approving the house. At this point, we're going the lots are subdivided, and now we're going with the house. On the other hand, that's not the substance of the appeal, which is basically about dewatering.

Mr. Lait: That's the right. The subdivision has been acted upon.

Council Member Filseth: I want to make sure that we've covered this base when we do this stuff. Thanks.

MOTION AS AMENDED RESTATED: Council Member Wolbach moved, seconded by Vice Mayor Kniss to:

- A. Adopt a Record of Land Use Action, thereby denying the appeal, upholding the Director's approval of an Architectural Review application based on a modified design removing two of the three previously proposed basements; and
- B. Find the proposed project exempt from review under the California Environmental Quality Act; and

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- C. Direct Staff to schedule an Agenda Item for the Policy and Services Committee to review the City's public noticing procedures; and
- D. Include notice on construction site with appropriate City contact information for complaints.

Mayor Scharff: If we could now vote on the board. That passes on a unanimous vote. Thank you to the applicant for coming tonight, and thank you to the appellant.

MOTION PASSED AS AMENDED PASSED: 9-0

- 8. PUBLIC HEARING: 670 Los Trancos Road [16PLN-00266]: Site and Design Review to Allow the Construction of a new Single Family House and Guest House With a Total of Approximately 10,960 Square Feet of Floor Area. Environmental Assessment: Categorically Exempt From California Environmental Quality Act (CEQA) Pursuant to Guidelines Section 15303 (New Construction or Conversion of Small Structures). Zoning District: OS.

Mayor Scharff: Now, we'll move on to our next item, which is a public hearing on 670 Los Trancos Road, Site and Design Review to allow construction of a new single-family house and guest house with a total of approximately 10,960 square feet of floor area. Is Staff ready? If we could have the Staff presentation.

Graham Owen, Associate Planner: Thank you, Mayor and members of the City Council. Thank you very much. My name is Graham Owen; I'm the Staff Planner that's been working with the applicants on the project that's before you today. This is a Site and Design Review application to allow the construction of a two-story residence, a detached accessory structure, a guest house, and associated site improvements on the site at 670 Los Trancos Road. Site and Design Review is a process that is enabled in the Municipal Code to allow for the construction of structures in environmentally sensitive areas in keeping with the Comprehensive Plan and the environmental objectives of the City. What has been proposed is a main residence of 9,363 square feet for the main residence, 1,508 square feet for the guest house. The application was previously reviewed by the Planning and Transportation Commission, which found that the application was in keeping with the Site and Design Review objectives as well as the Open Space Development Criteria. Accordingly, they approved the application 5-1. Immediately prior to the Planning and Transportation Commission hearing, we did hear from a member of the public regarding the view impacts of the proposal from the Arastradero Preserve. We also had a member of the public speak about the accessory structure/guest house that

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is proposed. Since the recommendation of the Planning and Transportation Commission, we have heard from a number of members of the public on those two issues in particular. I'm happy to discuss those with you if you have any questions about them. Here's an aerial photograph of the vicinity of the application. As it's alluded to, there is the Arastradero Preserve immediately to the north of the site, which is a large open space preserve in the City of Palo Alto, in the southern section of the City. Immediately to the south of the subdivision, the Hewlett Tract in which the site is located is Foothills Park, just to give you a slight orientation there. The Hewlett Tract is a ten-site subdivision, and five of the sites have been developed at this time. This is the site in question. As you can see, Los Trancos Road, which is a private road, in this section slopes up from the left to the right and rises to a knoll immediately on the subject site. From the knoll, which is located about 100 feet or so from the road, the site slopes down dramatically in the direction of the Arastradero Preserve. The actual building would be located in the center of that clearing that's shown here on this aerial photograph. Here's the site plan and landscaping plan that's been submitted with the application. As you can see, there would be two structures. The guest house is detached, and the main structure would be located about halfway down the hill. As you look at this plan, you'll see that the existing areas that are going to be preserved are located in areas where they have dashed contours and also a number of trees. The applicant is proposing to remove one decayed valley oak and, as mitigation, they'd be planting ten blue oaks or valley oaks with the approval of the Urban Forestry Division. Here's a site section showing the main residence in relation to the top of the knoll. In particular, I'd direct your attention to Section C, which shows the side view and, I think, is the most helpful because it shows the height of the structure in relation to the top of the knoll, which is immediately adjacent. The height limit in the open space is different from the R-1. It's actually more akin to how we view height limits for zoning compliance in the commercial districts. Twenty-five feet is the maximum height limit; however, the point at which you measure it is based on the midpoint of the slope or the average of the slope of the roof. Having said that, I bring that up because the highest point of the roof is actually at 26 feet above finished grade. However, at the midpoint of the roof, it's at 22 feet. At no point does the roof ridge exceed the height of the highest point of the knoll. Here is an elevation of the guest house, which is proposed on the corner of the site and would be surrounded on three sides by forest cover. It would not be visible from the Arastradero Preserve. As I alluded to, there are two main issues that have been raised by members of the public at this time. Those concern the guest house/accessory structure as well as the views from the Arastradero Preserve, which constitute the majority of the comments that we have received so far. The guest house, here's a floor plan showing the guest house. An earlier iteration did include a kitchenette; however, it did not

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include cooking facilities such as an oven or hookups or anything like that. The kitchenette has been dropped completely from the floor plan of this plan that you have before you today. It does not constitute an accessory dwelling unit. The previous iteration of the plans did not constitute an accessory dwelling unit either. I believe that the kitchenette was dropped in response to those concerns, to make sure that they were Code compliant. Here's a view from the Arastradero Preserve. I took this from the Meadowlark Trail, which is one of the closest trails in relation to the site. As you can see, the house would be situated on the knoll—directly below the knoll, excuse me. It is in a clearing. Owing to the site constraints, there aren't a lot of other places on this lot to be able to place a structure of this size. What we have here are an oak and a buckeye forest on either side of the site as well as highest slope areas as you get further north into the site. Owing to those natural constraints, we do recognize that there is going to be views of the site from Arastradero Preserve; however, there aren't a lot of other places on this site where a structure could be located. The story poles have been erected. They're not so visible in this view, but photographs have been included with your Packet that, I believe, were taken by other members of the public, which show the story poles. They have been erected since the PTC hearing on January 11th. They have been up, and we've received a number of comments from the community as a result. We do have a reference, the Site and Design Review objectives as well as the Open Space Development Criteria in this slide, if you'd like to refer to them later. With that, I'll leave it at that. The Planning and Transportation Commission did review the project and found that the application was in keeping with both the Site and Design Review objectives as well as the Open Space Development Criteria and recommended approval of the project. Staff does recommend approval with the conditions noted in the Staff Report.

Jonathan Lait, Planning and Community Environment Assistant Director: I'd also like to note that Vice Chair Asher Waldfogel is in the audience, if the Council would like to hear from him first.

Mayor Scharff: Thank you very much. Now, we will turn to the public for public comment. I was just waiting for the Clerk to put the names up, but I can start calling them. Mark Siegel to be followed by David Fudenberg.

Mr. Lait: Typically, we do the applicant presentation, I believe, first.

Mayor Scharff: This is not an appeal.

Mr. Lait: It's an application—it's a quasi-judicial application that is before the Council. Typically how we handle the hearing process at the PTC, you hear from the applicant and then the public testimony.

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Mayor Scharff: That's fine.

Molly Stump, City Attorney: These are unusual. This is an application that does come to you automatically. It was originally placed on Consent for approval and got pulled.

Mayor Scharff: Right. We actually haven't had one of these since I've been on the Council. Do we give the applicant more than 3 minutes? Just so everyone knows, I'm going to give the public 2 minutes given the number we have. How much—does the applicant get 10 minutes? Let's hear from the applicant. The applicant gets 10 minutes.

Guy Gecht: Thank you very much. Mayor, Council, good evening. It's an honor to present the house and ask for your approval tonight. We have 2 years of work condensed to 10 minutes, so I'll get going. We're going to spend most of the time talking about the view from the Preserve because there's so much to the design we did in the last 2 years. In the way of background, you may detect a very slight accent. My wife and I came from Israel 26 years ago. Our kids were born actually in Palo Alto. Beside the family, the two passion we have is technology and nature. This site actually combine both of them in this house design. Hopefully it will come across. Our story is not as interesting as actually the story of the Hewlett subdivision. Bill Hewlett, everybody knows, started Hewlett Packard. He had a property of 129 acre, which he lived at. Instead of dividing it to ten lots of (inaudible) he did admirable things. He donate some part of the park. He put some part that actually belonged to the property to the ten lots, but they're buffer zones so we can't build in (inaudible) the rights from that. He classed the ten lots together to total of 51 acres. It's already in the design. We put some thought into trying to shield the way; although, it does seem like the park—by the way, maybe the biggest achievement of the donation was to connect Foothill Park and Arastradero. When you cross that, it's actually Bill Hewlett part of the 77 acres that is now part of the park. This is an aerial photo. You can see the common area that belong to us, a buffer, and then the area of the (inaudible) which connecting it. The one thing to see in this is the park is all surrounded by residential. This is not the first time that somebody that have approval of a residential property would have like to build. As Graham mentioned, five out of ten got developed, the other five for residential lot in the Hewlett Tract. It's a big honor for us to buy 2 years ago from the owner's daughter of Hewlett and continue what they started. The 24 months since we bought it, even a little bit before we bought, we really tried to combine many things. One is called the criteria for the open space, neighbor concerns, and of course the view from the Preserve and then also our own preference for our future home, for our house, for our family. You can see photos. We literally made more than

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50 with our architects, more than 50 physical motives to try to understand what would work best for all of those constraints. Paul, our architect, is going to go through some of that. We worked pretty close with Staff. I believe—Graham can correct me later—100 percent of the requests over the last year and a half that the Staff have made we implemented. It wasn't like a negotiation. Actually, after the PTC, although we got the 5-1 approval, we went and implement further tweaks to address the one vote that was against us, again working closely with the team. The City have done a great job working with us. We ended up submitting in June the application. I want to turn over to my team. I just want to say that we put together a team that is very focused or very specialized in this type of location. The architects, Paul McClean—almost the entire portfolio is hillside properties. His own house that he built 2 years ago is on a hill overlooking a preserve, so he's very familiar with those type of things. We love the work he does, and we brought him in. I think he did a fabulous job with us on this. Paul Kephart is, first of all, very famous as an ecologist, known for restoration, known for how to get the right trees to mitigate the screens. He's also very well known for his green walls. You probably know his work with the green wall on the top of the science museum in San Francisco. With that, let me turn it over to Paul McClean to talk about the design.

Paul McClean: Thank you, Guy. Good evening, Mayor, Council Members, City Staff. My name is Paul McClean. I'm the architect for the project. I would like first to thank Staff for all the tremendous effort they have given us with this project and advice as we've gone through it. I would like to spend just a little time talking about site constraints. As you can see, here's a picture of the lot. As you know, it's about 5 1/2 acres, but we're somewhat limited in where we can locate the house within the property. This first slide just shows you the site setbacks, which you're all aware and cognizant of. More important, these are the trees that we need to protect on the site. That takes up about half of the site area we have to work with. This is the ridgeline, which Graham went over before. We cannot disturb that area of the site. This area in purple is the part of the site that's too steep to work with. We can't get access to that part of the site with the requirements for fire access, etc. This area in blue, in order to stay below that ridgeline—we need to be 25 feet below that ridgeline, so we need to come down out of that area to the areas that are left between the purple and the blue. This area in orange, we have visibility to Foothill Park from there plus problems with privacy with the neighbors and steepness. We're left with these three white rectangles to work with. We placed our accessory structure in the small area between the two groups of trees and then worked with the other two rectangles to develop the plan for the house. When looking from the Preserve, there are a lot of homes that are visible. Our goal, when looking at this project, was to try and improve upon what you

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see here in these slides in terms of visibility. We really wanted to try and minimize that as much as possible. The first Open Space Development Criteria is development should not be visually intrusive. We took that as gospel. We were going to try and make it as visually un-intrusive as possible. We used the following techniques to get there. We placed a large portion of our program below grade and then restored the hill over the top of it. This is part of our FAR; it's not a basement. We tried as much as possible to blend the house into the hill with green roofs and landscaping. That one important view shed where you can see the house from the park, we placed the single-story portion of our building there, where we could better screen it with additional trees, which Paul is going to talk about. Our designs are very transparent, but we often find a transparent home does not seem as visual on the hill if they're transparent rather than reflective. We took that, used a lot of overhangs to try and reduce the appearance of the house and took our material palette from the surroundings in terms of its coloring. This is just a quick sketch of where the single-story part of the house is. This is an interesting drawing because this is on top of the garage, showing where the hilltop is restored over the structure. That single-story section of house you see is actually the two-story portion of the house. On the opposite side, it's screened by the forest that's remaining. I'm going to hand it back to Guy at this point.

Mr. Gecht: Real quick on the view shed analysis, we did a lot here. First, because of the position we put the house, there was really not—we kind of shield away from Foothill. I don't want it at Foothill Park; I don't want to talk about it so much. Really the thing to think about is when you look at the parks and the trails, the 25.2 miles of trails, we are only somewhat visible or in line of sight, the house, in about 2 percent of it. Ninety-eight percent of the trails, it's not an issue. We focus on the 2 percent that's left. Obviously, we didn't take it "fine, 2 percent, we minimize the house." Everything we're going to talk about from now on is going to be the 2 percent. This is how we calculate; the public can go and check. We have done it many times. This is where you see it, some of the places you can see in and out. There's some areas with low impact. Where you actually go in between the trees, you can see the house. I want to focus with you on really the areas where it's more visible. Here is the neighborhood. Of course, that was important, so we also hide it from the neighbors. Now, this is the area where it's most visible. We looked at the area; it's almost where Graham took his photo because that's the area where it's most visible. With tree mitigation, we actually did a lot more to mitigate there, and Paul is going to explain that.

Paul Kephart: Hi, good evening. I'm Paul Kephart; I'm a restoration ecologist. Rana Creek's focus for the last 30 years in this area has been on

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sustainable architecture and restoration ecology and urban ecology. Guy and Noa asked us to focus our work on site integration, respecting nature, minimizing grading, managing storm water runoff, water reuse strategies, and the reforestation and screening for the project. We're looking at natural materials, natural colors, localized materials so the house, the structure, the landscape all blend in and help restore the ecology. One of the strategies we're going to employ is a storm water harvesting that we can reduce potable water consumption for the landscape by 60 percent. Now, I want to talk about this issue of the reforestation and the screening of the house. Sounds like we're out of time right at the ...

Mayor Scharff: You'll have 3 minutes at the end after the public speaks if you wish to sum up.

Mr. Kephart: Thank you.

Mayor Scharff: Now, we'll return to the public. Our first speaker is Mark Siegel, to be followed by David Fudenberg.

Public Hearing opened at 7:34 P.M.

Mark Siegel: Thank you. My name is Mark Siegel. I'm a neighbor on this private road that the proposed construction is on. I'm here to voice my support for the project. I know that there are a number of members of the public who are concerned about the impact on the views that this is going to have from the park. I'd just like to say nobody is probably more concerned about that than me. I enjoy hiking and walking and biking out in Arastradero and Foothill Open Space Preserve. I can also see the site in question from my home. I really feel that this plan has gone through painstaking effort actually to make the house as minimally visually impactful as it could possibly be. I'm really very encouraged to see how sensitive the owners and architects have been to the surrounding neighborhood and parkland. I really feel that a plan like this that conforms to essentially all the requirements for building a home in an open space area like this should be approved. We have seen plans in the past that have not conformed. Those have been rejected. I really feel that to have a great family in the neighborhood and to encourage construction that is environmentally sensitive and conforms to the rules is something that should be rewarded. Conversely, I think subjectively if this is not allowed to proceed as planned, it sends a very different message about why projects can and can't be built. Very pleased with the plan, and I hope you'll give your approval to it tonight. Thank you.

Mayor Scharff: Thank you. Claire Landowski and John Krueger.

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David Fudenberg: Mayor Scharff, City Council, thank you for allowing the public time to speak on this and other issues. I'm not sure how familiar you all are with Foothill Park. The proposed building will be seen from Acorn Trail, Meadowlark Trail, and Woodrat Trail. Let me show you some photos. I think you would have gotten many more comments if some of the trails nearby were open. They were closed for some time due to mud. You can see the white flags clearly visible from different parts of the park. Here, you can see them on the hilltop. At a time when Palo Alto continues to add new houses, new ADUs, and new businesses, it's crucial we continue to protect our open space. As a side comment, where is our next Foothill Park or Arastradero? It's crucial we continue to add open space even as we densify the core. Per the City Code, "the development should not be visually intrusive from public roadways and public parklands." It is clearly visible as the photos have shown. Without a clearly stated public benefit, why are we allowing construction of a house that will satisfy one household's needs while impacting Arastradero Park for the significant number of users? On the issue of ADU, the lot's not zoned for an ADU. While I appreciate removing the kitchenette, we know all across Palo Alto people get—unfinished basements become finished basements, get sinks and bathrooms, and then become living space. While this adds needed housing, it also creates unplanned congestion. I ask again, without clearly stated public benefit, why would we allow the construction of a house that satisfies one household's needs while impacting Arastradero Park for the rest of the City?

Mayor Scharff: Thank you. Allan Alcorn to be followed by Michael Jacobs and Jane Morton. If we could just clarify, because I see Jane Morton further down. Did I skip one?

Claire Landowski and John Krueger: Hi. We're Claire Landowski and John Krueger. We live in Mountain View, and we work in Menlo Park, so we spend a lot of time in Palo Alto driving and biking to work, and most of all unwinding in Arastradero Preserve. It's a sanctuary for us. Probably that's true for thousands of other people as well. We go there at least a couple times a week to trail run and walk our dog. It's a treasure. It's what keeps us sane and productive here in Silicon Valley. We're extremely grateful that it exists. That back corner of Arastradero along the Meadowlark Trail and the Bol Loop Trail is, in our opinion, one of the finest and most beautiful parts of the park. One of the nicest things about it is that from the Meadowlark Trail you can clearly see all the way to the crest of the Santa Cruz Mountains there. It's one of the few places in the park where that's possible. The view crosses right through that clearing where 670 Los Trancos Road would be built. I was dismayed and heartbroken to discover that this development has been recommended by the Planning Commission despite its violation of a number of Municipal Codes. Technically, the lot is

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too small. The impervious areas are too large, and the guest house is prohibited or, if not expressly prohibited, is at least illegally sited. Yet, the City of Palo Alto has agreed to exceptions, trades, waivers, and all kinds of legal acrobatics to allow this development to proceed. The Municipal Codes were written for good reason. The open space codes were written to prevent just this kind of development, multiple structures sited poorly on a too small lot. There is virtually no public support for this development outside of a handful of immediate neighbors. What would it say about the City of Palo Alto if the Council refuses to uphold its own Municipal Codes against the will of its constituents? Perhaps there's little that could change the Council Members' minds about the development at this point, but we are here tonight to urge the Council to rethink this dangerous precedent that you're setting. These open spaces are for all of us, not just for us humans but more importantly for the ecosystems we depend on. A willingness to overlook or trade away your Municipal Codes for the benefit of one family is a disservice to all of us humans and ecosystems. We're asking you to reject the proposal to build 670 Los Trancos Road. Think of the people and the wildlife who depend on these open spaces and the damage done if you pave the way for development around these public open spaces. Thank you.

Mayor Scharff: Thank you. Now, Allan Alcorn to be followed by Michael Jacobs.

Allan Alcorn: Thank you. My name is Allan Alcorn, and I live at 660 Los Trancos Road, directly adjacent to the 670 Los Trancos. I've lived there for over 40 years. That lot has been vacant for all that time. We were always concerned about what kind of house would be built there. Would it be a spec house? The applicant has been very generous in sharing the details with us. I'm very impressed; it's a beautiful house. I look forward to having it next door to myself. I'm also a very frequent user of the Arastradero Open Space and frequent most of the trails there once or twice a week. I think this house, the way it's built and its beauty, will be an addition to the hillside. It won't be just a meadow, but it will be undoubtedly the most beautiful house that's visible from anywhere in the park. I encourage you to approve this design. Thank you very much.

Mayor Scharff: Thank you. Michael Jacobs to be followed by Sue Crawford.

Jane Morton: (Inaudible) join my husband? I'm Jane Morton.

Mayor Scharff: Absolutely. Did you want to speak separately, Jane? I have you on the list down here as well. Or do you want to speak together?

Ms. Morton: I'll take 30 seconds.

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Mayor Scharff: We'll just make it work.

Michael Jacobs: We both appreciate the opportunity to speak to the City Council. We're here this evening as 29-year residents of the open space district. We are also neighbors down the road. We're here also as frequent hikers at the Arastradero Preserve. We are also here hopefully as future neighbors of Guy and Noa. As we understand the status of this, Guy and Noa despite the fact that they have created an exquisite site design that has satisfied virtually all the criteria for open space development still have some people who object to this project. As I understand it, the objection has to do with the perceived impact of this project on the experience of people who use Arastradero Preserve. To better understand this, Jane and I last Wednesday and Thursday afternoon hiked virtually every single trail in the Preserve. It took us 4 hours of hiking. We left with knee pain and back pain, but we also left with two clear conclusions. One is that the reason that the draw of the Preserve, the reason that people go there again and again has to do with the magnificent vistas and with the incredible natural beauty of the Preserve. The other conclusion we came to was that, although you definitely can see existing houses that you've seen pictures of in the distance, when you take these hikes, you don't focus on the distant houses ever. We're not talking about the houses that you've seen a picture of. We are talking about a house that was done with exquisite sensitivity to the environment. The siting and the design reflect this clearly. There will be literally no and perhaps, as Al Alcorn said, there will be no impact on the experience of the hike, and perhaps it'll even be a positive experience because this has been so well done. In conclusion, Jane and I find the objections really, truly baseless. We strongly support the approval of this project.

Jane Morton: Thank you. If I could just have 30 seconds. Michael and I have—again, we're 614, right down the street. For over a year, Noa and Guy have gotten our community together to go over details of the planning that they've done for what I would agree would be a beautiful addition and by far the most gorgeous house that you will see when you take these hikes. Thank you very much.

Mayor Scharff: Thank you. Sue Crawford to be followed by Maureen Bard.

Sue Crawford: I'm Sue Crawford. I live at 714 Los Trancos Road with my husband, who can't be here tonight. We have gone through (crosstalk) ...

Mayor Scharff: Do you want to move a little closer to the mike?

Ms. Crawford: The open space is different. Most of you don't know where we are. We have strict guidelines, and we are very appreciative that

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someone spent the time to educate the neighborhood, that they tried very hard to fulfill all of those guidelines. To our understanding, they have fulfilled all of them. The one thing is that we are not Arastradero Preserve. We are private property owners. I do feel they have tried to work with the City and follow the guidelines, but at the same time property owners' rights also need to be respected. If you follow the rules, I think you should be rewarded. Thank you.

Mayor Scharff: Thank you. Maureen Bard to be followed by Kim Acker.

Maureen Bard: Hello. I'm a little nervous too because I don't do this type of thing. I love Arastradero Preserve. I'm worried about the intrusiveness of the home. Every week, at least two times a week, I walk to what I consider the jewel in the crown of the park, which is where the house will be. You walk up Woodrat Trail through woods, and you get to this vista. You can see Windy Hill in the distance. You can see woods, knolls. There's a giant oak tree. You can look down to the Bay. It's a gorgeous spot, but the house is exactly going to within 100 feet of the border of the park. The pictures that the homeowners have shown us of proposed trees—I would love it if they could really block the house. Those trees won't grow very fast. They'll be below the house. How will they really block the house? I'm sorry, I forgot. I just think the City should be very careful about the public view and not exchange the rights of one homeowner for the many, many people. Many of us have not been able to get up those trails because of the rains. I think you would have way more people very upset if they had been able to go up and see the story poles. I have to say the Gechts have been kind of enough to reach out. I came into this process late because of the closed trails and not knowing this was happening. I don't think this house at all will ever be able to not be visually intrusive. That is what our Code says. It doesn't say they need to fit it so that it works for them. It has to be not visually intrusive for us.

Mayor Scharff: Thank you. Kim Acker to be followed by Jeni Dye.

Kim Acker: Thank you. I'm a hiker. I've lived in the Bay Area my whole life. I wish I could say I liked it here more. It's home, but it's too congested for me. I'm probably going to live the rest of my life here. A place like Arastradero is really important to me. I live in Los Trancos Woods in Portola Valley. That's my way of surviving the way we've developed here. What's important to me about Arastradero is it's where all my flatlander friends will meet me to go for a daily hike. We have a lot of beautiful places, up on Skyline that you can go for extended hikes. When you want to get exercise and get out for just an hour, just like our friends here have talked about, Arastradero is an easy access place. It's not the Dish where you're walking

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on pavement. What we're talking about here is how much do we value our open space and what does open space mean. For me, I can see this is a beautiful house. I can see that they have attended to putting a beautiful house in nature. The point is it's a house that—the pictures clearly show—I went out there to hike, to see. It's like it's a bald ridgeline. There's just no way you can hide it. For people who spend time in nature and are renewed in nature, to see manmade structures—we have plenty of manmade structures everywhere. What we want to see is no manmade structures. We have few places for that in a short distance. I just want to reiterate the City Code 18.28.070 that development should not be visually intrusive from public parklands. It must be hidden from ridgelines. This property does not do that, and so I'm against it.

Mayor Scharff: Thank you. Jeni Dye to be followed by Winter Dellenbach.

Jeni Dye: Hi. My name is Jennifer Dye, and I am an architect that works in Palo Alto for Maydan Architects. We're a firm that has designed quite a few houses in the Palo Alto area as well as Los Altos, Atherton, all around the general area. I believe the design process and the end result have an important impact on the beauty of the City. I believe this project makes a positive impact. I'm also a professor at San Francisco State University and UC Berkeley extension. I have spent the last 10 years teaching our future generations the importance of design and its impact on the environment. I would like to make it clear that I am not associated with the architecture firm who designed this home on Los Trancos, but I have had the opportunity to look over the architectural drawings of this project. The architect and the homeowners did a great job in complying with the Zoning Codes and all of the regulations. They succeeded in creating a beautiful house that is minimally intrusive. Unlike many of their neighbors who have had variances for their homes, they were able to design this house with no variances at all, which is quite an undertaking. As you can see from the photos, the house follows the slope of the hillside. It's set lower down on the hillside to be as minimally intrusive as possible. It's a very graceful design that adds great beauty to the neighborhood and the City. I also came to speak tonight as a concerned architect that sees people being able to make comments and ask a homeowner not to be able to build a house on their property. Noa and Grant have bought this property. They have homeowners' rights to be able to build. I'm concerned as a designer that they should be allowed to build on their property. As architects, we should be able to facilitate that for our clients. The public can't hold up the process and not allow a homeowner to actually build on their site. I'll leave it at that. Thank you.

Mayor Scharff: Thank you. Winter Dellenbach to be followed by Herb Borock.

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Winter Dellenbach: Hi. The homeowner walked into this with eyes open. They bought a piece of property in open space zoning. It's called open space zoning for a reason. It's about open space; that was the intent of creating this zoning, open space. We expect you to protect our open space, to abide by our zoning laws of open space. It's about open space. If we wanted the zoning to be about—we could call it "giant house detached garage very large guest house, two separate driveways" zoning, but we chose to call it open space zoning because we wanted it to be about open space. I lived for 23 years in open space zoning on Upper Page Mill Road. Myself and my brother and sister communards bought 10 acres of open space in 1976. Boy howdy did we have to abide by Palo Alto's open space zoning laws. We were told what we could do and what we couldn't do. At times, that was a huge responsibility. Actually I could go into specifics, but I was given 2 minutes so I can't. That was at times actually onerous. It's a real responsibility to live in open space zoning. People that live up there—people have lived up there, a lot of people, for a long time. You have to abide by the laws. This is somebody that has barely 5 acres. This guest house is a guest house, three bedrooms. That guest house is larger than the house that I live in. This is really disappointing. If this is what is happening to our precious open space up in our precious Foothills—I'm so proud that Palo Alto has saved our Foothills unlike a lot of surrounding towns up and down the Peninsula, where all you see are houses up there. I hope you folks do the right thing and protect our open space. Thank you.

Mayor Scharff: Herb Borock, our final speaker.

Herb Borock: The applicant has the right to build, but he has to follow the laws. In the open space district, the applicant doesn't have the right to site the house so it has the best views of open space. If the house has the best views of open space, then people in open space can see the house. That's why we have the Code section that's been cited, 18.28.070(p)(1). That says not be visually intrusive from public roadways and public parklands. Instead, what we get from people supporting this thing—they live near there, and it's not intrusive to them. That's not what the Open Space Code is about. Part of the reason that it's so intrusive is the size of what Staff consistently refers to as a house, a guest house but a house. You can say anything you want on the plan, and you can put anything there when the building inspector comes. If you don't have as many water hookups as there are in this house, you're going to have a kitchen, a hobby room for something that was going to be a retreat for occasional guests. Do you really believe that's what that room is for? I don't. As far as who says what the Code says, you have to have a Code and conditions that are effective, which is why I was concerned about the last item, when you were trying to condition something on something else that hadn't been approved yet. By the way, the effective

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date of Ordinances in Palo Alto, in the Charter, is not 30 days after the second reading. It's the 31st day. By the way, every Ordinance labels the date of the first reading. The word used is introduced. That page has the signature of someone from the Attorney's Office. Thank you.

Public Hearing closed at 8:18 P.M.

Mayor Scharff: Thank you. Now, we'll return to Council. We need to do disclosures. Council Member DuBois.

Council Member DuBois: I saw an email with the presentation that was shown tonight from the applicant.

Mayor Scharff: Council Member Kou.

Council Member Kou: I've met with the applicant and also had email exchange with one of the general public.

Mayor Scharff: If you learned anything, I think you should disclose that too, if you learned anything that would influence your decision.

Council Member Kou: When I met with the applicant, they introduced some things that I didn't know about, because I didn't read the Staff Report. After I read the Staff Report, it's actually in the Staff Report.

Mayor Scharff: Council Member Wolbach, no. Vice Mayor Kniss.

Vice Mayor Kniss: If we've heard from neighbors, do you want us to disclose that?

Mayor Scharff: If it's in an email, isn't that part of the public record?

Vice Mayor Kniss: Yes. It's in an email. You all got it.

Molly Stump, City Attorney: Council Members don't need to disclose emails that were sent to the City Council's open webpage.

Mayor Scharff: I also received that from the applicant. I think that was sent to all Council Members. I'm not sure, but I'll just say I saw that. I also made a site visit and saw the story poles, saw the large house to the left of it, that you see from the bottom of the trail, looked at the other houses that you could see from the area. I would say that influenced my thinking and that it gives you a visual impact of what the house would look like with the story poles. Council Member Filseth.

Council Member Filseth: I went and looked at the site too.

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Mayor Scharff: Council Member Tanaka.

Council Member Tanaka: Both Guy and Noa came to see me yesterday at my office hours. They talked about the project. Pretty much all they talked about is actually in the project. The one thing I did learn that wasn't in this was they gave me a copy of what they gave to all of you guys, which is this handout that was posted. They mentioned that the photo of the story poles was a telephoto. It's a blow-up of what you would really see from the trail. That's the only thing I learned new.

Mayor Scharff: Council Member Fine, no. Council Member Holman.

Council Member Holman: I did do a site visit. I've been out of town, so I haven't had conversations with either applicants or other interested parties.

Mayor Scharff: Thank you.

Mr. Gecht: Before that there is ...

Mayor Scharff: Three minutes.

Mr. Gecht: ... one member that asked us to read their email. Is this allowed? Somebody that couldn't make it because the time got (crosstalk).

Mayor Scharff: You have 3 minutes; you can do what you want with it. Go ahead.

Mr. Kephart: Thank you. I'm going to pick up—Paul Kephart here, landscape architect—where I left off. First, I'd like to thank the people that did speak, all the open space people and everyone here tonight. I'm here to assure you that we can meet or exceed and comply with the Code. This is not going to be visually intrusive. I've spent 30 years growing trees. I have a 30-acre nursery. We did these models of what the screening and the reforestation would look like. Guy and Noa have agreed to do pre-construction planting. These are not insignificant little 5 and 15-gallon trees. This is what we envision a 5-year look ahead at the screening would look like. Also, the City has imposed some very strict guidelines on the monitoring of the performance of this visual screening. You're going to monitor and assure the public that the screening will be effective. If it's not, then remedial screening will be planted until you're satisfied. These are just samples of the scale of the trees that we've already grown and selected. You can see in the photograph these are significant trees. We're going to reforest the understory. It's going to be diverse. I believe we're going to meet or exceed and comply with the Code. Thank you.

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Mr. Gecht: In the interest of time, I'll skip to topic. We show that we are away from the hilltop and way below that. The City can show that. I just want to show—I want to talk a little bit about the comments that we heard. First of all, everybody that talk against our project share our passion for the open space. There's no question about it. We appreciate that. We actually reached out to all of them; only one person replied back. Nobody actually reply and agree to meet. We wanted to show them all the things we do. When you see the poles, as you mentioned, you don't see the tree mitigation. With the tree mitigation, it's going to look a lot smaller or not at all after a few years. The photos that were shown—there's the same photo they put in the brochure that was given to people by our opposition—are 30X zoom. At the end of the day, when you have 30X zoom, things are going to look (inaudible). You saw it. The photos that you show today that are 30 times, that's not the experience in the Preserve. In summary, we did a lot of work to meet the Code—hopefully it was recognized—above and beyond what's required. We're asking to build about 1,000 feet below what's the maximum on this thing and at less height than what we're allowed. It's the spirit of the Hewlett Tract agreement. We believe we continue on this. We spent 24 months trying to figure out what to do. It is important to us to get the go ahead today. It's better for everybody if we do the soil work during the summer, both the neighborhoods, environment and so on. It would be faster to do it in summer. We appreciate the little time we got. Thank you very much.

Mayor Scharff: Thank you. Now, we'll return to Council. Council Member Holman.

Council Member Holman: I have several questions actually. Again, apologies; because I've been out of town, I didn't get these in. Thank you for doing the disclosures. I have questions about a few things having to do with the materials that have been provided. Based on prior experience on the Planning Commission and Council, it seems like we almost have—I don't know how to refer to it other than review creep. We don't have material boards; although, they exist according to the materials in the plan. Typically, the material boards would be provided to the Commission and the Council. I don't know if they were at the Commission. Are they here? Good to know. Can you hand those up to us? Thank you. We can take a look at these. There are no color renderings in the plan sets. There's no reference to what the materials are because there are no color sheets in the plan sets. No materials are listed, and there's no lighting plan provided. All of those things used to be provided so that the project neighbors and the people who could be viewing the project from here, there, or anywhere would know the project would be consistent and compliant with those conditions. The Record of Land Use Action on Page 176 talks about in Section 4.1 ten

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proposed blue oaks that would limit the views of the surrounding properties, but there's no reference, as the applicant has indicated, to size or location of those. I'm not going to try to make up language right now. Before we leave, I hope we would take care of that. It's very non-specific. On Packet Page 175, again referring to the project materials, it says at the very top of the Page "further the materials colors." One of the findings, finding section 3.1 that continues at the top of Page 175, says furthermore the materials, colors, and (inaudible) have been designed to blend in with the natural environment to the greatest extent feasible. I don't know what assurance we have other than the applicant presentation this evening. I do not find it on the plan set, nor do I find it in the Record of Land Use Action or conditions of approval. Page 178, Section 6, Number 1, says the plans submitted for building permit should be in substantial conformance with the plans last revised on March 13, and the materials board on file with the Planning Department except as modified to incorporate the following conditions of approval. There's nothing that's very specific here. I don't know what it actually is going to refer to. If we could get clarification of what variance—I'll put these out there, and then Staff can respond all at once, if that's agreeable—clarification on what Variance 86V22 is please. That's referenced a few times. Again, color scheme and building materials are referenced several times. The applicant mentioned, but it's not here, that there would be plantings done pre-construction. It's not in the—I did not find it. If it needs to be added to the Record of Land Use Action, then let's do that. What does that mean? Again, what size and where would those trees be located? There's also nothing mentioned about—it talks about the trees being there, but again in prior reviews of projects there is—it has to be an approved pruning plan as well. If trees are improperly pruned, they can certainly interfere with visibility mitigations. Also, these reports for the trees—this is at the bottom of Page 179, Number 8—talks about landscape reports should be required 2 and 5 years after the final signoff on the project completion. It seems like, as we do on many other projects, it would be for the life of the project that the trees would have to remain. We can pick some interval of review, maybe every 5 years or 7 years, something of that nature. A couple of comments. The hillside structures that are shown in the applicant's presentation, I would probably bet somebody a lunch that none of those are in Palo Alto Foothills. I appreciate their use as a reference point and trying to improve on those, but if we're looking at trying to be consistent with the requirements in Palo Alto and the standard that Palo Alto has set in its hillsides, I can think of only one project which has been quite a mar. I can think of only one project that isn't better than any of these that are presented. That's my opinion and from several years of experience with open space projects. Going back to the materials just for a moment. A couple of the slides that were shown showed the walls of the house. They seem to be fairly whitish, so I'm looking forward to

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seeing the materials board. Was there any consideration of doing a green roof or a living roof on top of the house so that it wouldn't be visible from Foothill Park? That's also a question that Staff can answer please. I think those are my questions. A quick comment. As someone said, whoever it was—I guess a couple of speakers talked about the rights of a property owner. Of course, we recognize that, and still the property owner buys knowing what the zoning requirements are, surely, hopefully. The Council does have not only the right but the authority and responsibility, even more important, to make sure that any project does abide by its rules. If Staff could answer questions that I've provided.

Mr. Owen: Absolutely. Your first question was about Variance 86V22, which is on both the Hewlett Tract and on the subject site. When the Hewlett Tract was created in 1980—I think the final map was in 1981—the clustering subdivision plan provided for smaller lot sizes than what was typically required, which is 10 acres. It was at the time, and it remains to this day. The smaller lot sizes, I think, range from about 3.9 to 6.1 acres throughout the Hewlett Tract. That clustering subdivision plan was accompanied by common areas that were included with the subdivision plan as well as parkland dedication to connect a strip between the Foothills Park and Arastradero Preserve. I think it's the Arastradero Creek Trail in particular that was dedicated. Basically as an incentive for the clustered subdivision plan, they allowed for the density and also for the impervious cover that was on those common areas to be transferred to the ten building sites. There was a couple of other changes to how Council looked at those allocations across the ten sites, but the ultimate decision in the 1980s was through that particular variance, which allocated for this particular site 15,050 square feet of impervious cover.

Council Member Holman: Thank you for that. I'm familiar with the Hewlett Tract, but maybe everybody isn't. Thank you for that explanation. I really appreciate that. I just did not remember that it was referred to as Variance 86V22. I have to have one question added to my prior questions. On the bottom of Page 178, it's Section 6.4(b), all paved surfaces shall be classified as 100 percent, 75 percent, 50 percent, or 25 percent impervious. The final impervious coverage calculation will be subject to approval by the Planning Director, not to exceed the maximum permitted by 86V22. Again, we don't have any of that calculated in the set plans. Add that to the questions.

Mr. Owen: I can answer that as well. In particular, that would refer to the driveway. The driveway in particular is commonly—as long as it's of a pervious paver material or DG, then it's essentially excluded from the impervious cover requirement. However, we don't know the exact impervious amounts that the Fire Department would authorize until we get

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to the building permit stage. One of the things that we would need to check for at the building permit stage is to ensure that the impervious cover requirement is based on a percentage of how quickly does the site drain to allow for impervious cover. That would be subject to review by both Planning and Public Works as well as the Fire Department to ensure that they can get a fire apparatus to the car court while also meeting the objective of having a pervious paver.

Council Member Holman: Just a little historical perspective. Unless my memory's totally inadequate, we used to have that information by the time it came to the Planning Commission. The Fire Department would have reviewed that to know what the—whether they would be able to access the site properly and safely with the amount of impervious that was being proposed.

Mr. Owen: They have reviewed the plans at this stage, and they've recommended the conditions that are included with the project. At this point, we don't have those percentages as broken down into those 100, 75, 50, and 25 percent increments.

Council Member Holman: The other questions?

Mr. Owen: The other questions. The pruning plan is included as a condition of approval. I believe it's Condition Number 56 in the urban forestry conditions. The landscape report, typically what's required is a 5-year follow-up report, but we did include a second year follow-up report as well as an additional condition. The trees would need to remain for the life of the structure. If you see fit to add a specific condition that says they would be coming back for the seventh year, that's certainly within your purview to do so. As far as your question about the consideration for the living roof or a green roof, there are sections of the house that do contain a living roof, in particular the four-car garage as well as a number of sections of the master suite. There's a metal roof proposed for the majority of the house, but there is a green roof or a living roof for certain sections. I believe I got them all. If there was another ...

Council Member Holman: I was meaning for the balance of the house, so thank you for that clarification. I did not find—thank you for pointing us to Condition 56 about pruning. Trees remaining for the life of the project, I didn't find that in here. Are you saying that we need to add that if we wanted to do that?

Mr. Owen: That would make sense if you're not finding it in there. I'm being told that it is in there.

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Council Member Holman: I didn't find it, so thank you very much for that. I think those are my questions. Trees planted prior to construction and commencing. Again, the size of the trees, the location of the trees aren't in the open space criteria review. Where would one find those?

Mr. Owen: The open space review criteria?

Council Member Holman: No. Where would one find what size trees and where the trees would be located in the Record of Land Use Action?

Mr. Owen: Those are located in the landscaping plan. We are requiring 6 feet in diameter for the trees. They have the choice per the urban forestry conditions to do blue oak or valley oak. One thing that you had mentioned was—I just remembered—the pre-construction placement of the trees or planting of the trees. That's not a condition of approval. If you see fit to add that as a condition, that would be within your purview to do so.

Council Member Holman: In the landscaping plan, the additional trees were a late addition. Is that in the set of plans we got?

Mr. Owen: They've been included. The ten mitigation trees have been included since the Planning and Transportation review.

Council Member Holman: It's not more trees; it's those trees.

Mr. Owen: It's those trees, correct.

Council Member Holman: Thank you.

Mayor Scharff: Vice Mayor Kniss.

Vice Mayor Kniss: I think there will probably be more and continuing questions. It's very difficult when we come to something like this. One of our speakers tonight spoke eloquently about open space is open space. However, also those who buy property in the open space have certain rights. Earlier tonight our City Council counsel, Molly Stump, gave us an indication—Molly, might you be willing to repeat what you gave us earlier tonight, advising us regarding property rights? Simply that one has a right, according to our zoning, to build on a piece of land. In this case, this person did not need to go through the variance that most of the others have done in that particular area. All you need to do is nod. I'm not trying to put you on the spot.

Ms. Stump: Thank you, Vice Mayor Kniss. The Council's obligation tonight is to consider the application and apply local law as well as the relevant provisions of State and Federal law. We read all of those together and

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ensure that applicants are treated fairly and that we are enforcing our standards. Thank you.

Vice Mayor Kniss: Thank you. I am going to move the Staff recommendation, which is on Page 169, the Site and Design Review to allow the construction of a new single-family house and guest house with a total of approximately—I'll call it 11,000 square feet of floor area, environmental assessment is categorically exempt from CEQA and so forth. I will speak to it in a minute if there is a second.

Council Member Fine: I'll second that.

MOTION: Vice Mayor Kniss moved, seconded by Council Member Fine to adopt a Record of Land Use Action for a Site and Design application to allow the construction of a new two-story single family residence, detached guest house, and associated site improvements on the property at 670 Los Trancos Road.

Vice Mayor Kniss: Thank you. I think it's always difficult when we, especially those of us who love to hike and trek up in the trails—I actually have sat here before and approved another house in that very same area. It was equally difficult. This couple has done their very best to ensure that the textures used and the materials that go into the construction are appropriate. I would agree with Karen. It used to be that we saw all those ahead of time, and they were approved and so forth. That apparently doesn't happen as frequently any more. In addition, I appreciate their close work with our Staff and also paying attention to what the screening will be. For those of you who saw your presentation tonight and looked at the 5-year effect that will have, that will make a great difference. I will not continue on further. If this passes, I wish you luck with this. I can tell it's truly been a labor of love, among other things, and a great deal of time and effort. That's appreciated, especially understanding the real sensitivity this community has to open space. Thank you.

Mayor Scharff: Council Member Fine.

Council Member Fine: Thank you, Mr. Mayor. Once again, thank you to Staff and to everyone who showed up tonight, and thank you to the applicant for providing all of this detail. I really appreciated all of the photographs and the presentation you put together. It was very thorough. I completely agree with the Vice Mayor that this is a contentious area to build in Palo Alto. We have this City where we've preserved our foothills and our Baylands. Nonetheless, in the OS district we do allow some limited development. I think your project has gone through the process that we have for it. You have met all the Code requirements. It looks like you'll

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have a beautiful home. With that, I really do think we should move this along. I have no further comments.

Mayor Scharff: My bad. We have our Planning Commissioner, Asher Waldfogel, to represent the Planning Commission. I think we do want to get their input. Planning Commissioner Waldfogel, would you like to come up and represent the Planning Commission?

Asher Waldfogel, Planning and Transportation Commission Vice Chair: Thank you. Asher Waldfogel, Vice Chair of the Planning Commission. When this project came to the Planning Commission, we got a heads up from Staff that we should look at it pretty carefully because it is a sensitive site. Full disclosure, I went and walked the site with the applicant, spent a couple of hours there, looked at it, looked at the relationship to the open space. This is one where what was presented to us at Planning didn't require any exceptions or variances. It looked pretty clean. The Planning Commission actually approved this in a single meeting, pretty rapidly. To us, it represented an example where an applicant has worked really hard to thoroughly analyze the situation, put together an A team. This is the kind of thing we like to encourage. That said, it is a little bit of a poster child of a complicated case. We've asked Planning Staff to try to bring projects like this to the Planning Commission earlier in the process. If we get them 24 months in, it's kind of hard to start nitpicking them. If we see them closer to concept stage, then it's easier to provide actionable input. Planning Commission did support this as you saw with the 5-1 vote. I guess we would encourage you to look at our Minutes and decide what to do.

Mayor Scharff: Thank you. Now, we'll come back to Council Member Filseth.

Council Member Filseth: Thank you. The guest house extends 2 1/2 feet above the ridgeline. You guys have been so thorough on everything associated with this thing, and the guest house extends 2 feet above the ridgeline. Why? Everything else meets Code and no variances, anything.

Mr. Owen: Allow me to refer to the drawings really quickly.

Mayor Scharff: Would you like the applicant to respond?

Council Member Filseth: I'll take either.

Mr. Gecht: I'll give you the non-technical answer. You can't see it. It's surrounded by trees. In order to protect it, we wanted to make sure we don't dig. We (inaudible) so we kept it this. We, of course, alert Staff. They said it's fine. If we really need to take it out, it's not going to help

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(inaudible) we'll take it down 2 feet. There's a way to do it if that's important.

Council Member Filseth: I understand. I got that it can't be seen by trees. A project like this is coming with no variances, nothing like that. It all appears to meet Code. The Code does not say you cannot build in an OS district. It doesn't say the house has to be invisible. Everything has been so careful. Now, it comes to us. For me to vote yes on it, I have to say it doesn't meet Code, but it's pretty close so it's okay. I wish you wouldn't do that.

Mr. Owen: If I may respond. You're correct it is 2 feet above the highest point on the knoll. I've checked that, and you're accurate on that. I will say that the provision in the Code that specifically says development should be sited away from ridgelines is one of the Open Space Development Criteria. It's not a development standard, of course. In your purview, if you're finding that the project is consistent with the Open Space Development Criteria, that is separate from saying it's consistent like the height limitations that are in the development standards or the setbacks, for example. It's "should" versus "shall," so to speak. You're accurate in pointing that out. I appreciate that.

Mr. Lait: Just to say, if a majority of the Council has the same perspective on that, it sounds like the applicant has indicated they'd be willing to try to figure out a way to address it.

Council Member Filseth: The applicant's point—I won't belabor this too much. The applicant's point is we can reduce it 30 inches and so forth. I wish between Staff and the applicant, if there's a place where it doesn't meet Code, I wish that would go on between Staff and the applicant first. If there's a variance, there's a variance. As opposed to, I don't like being in a position to say that doesn't meet Code but I vote for it.

Mr. Lait: I guess what we're saying, if there's a dialog here, is it's not a development standard as a Code, like a height limit. There is some room for applying the design to the objective or the criteria. What I'm hearing and understanding is the issue of the view shed concerns from Arastradero Preserve, the pathways and above the ridgeline are obscured by the trees.

Council Member Filseth: I understand that. I understand it's obscured by the trees. It doesn't go above the ridgeline seems like a pretty basic directive.

Mayor Scharff: While you're on that subject, it sounded like there was a tradeoff. In my experience in life, there's tradeoffs in everything. Was

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there a tradeoff by digging down that it could damage the roots? Therefore, in Staff's estimation—I guess I wanted to hear when we talk—not necessarily. I think it's important to explain Staff's reasoning on this. I assume you didn't just say that's no problem because it's obscured. I thought there would be a tradeoff, and you would weigh the tradeoffs. When you weighed the tradeoffs, it seemed less intrusive on the environment.

Mr. Owen: The 2-foot extension above the knoll is something I missed. It's an error. It's not something that I discussed previously with the applicant.

Mayor Scharff: Fair enough. Council Member—who had their light on next? I think it was Council Member DuBois.

Council Member DuBois: A couple of question real quick. I should have asked this ahead of time. There was plans for a bridge inserted in the Packet. I was confused what this was, Item Number 8, Stevens Creek Bridge. Any idea what this was?

Mr. Owen: It may have been a previous Council meeting. There was one last week on the subject.

Council Member DuBois: It didn't seem relevant. It was stuck in there (crosstalk). I do look at the Packets. Another question. When this came to us in February, it had some redlines on Packet Page 176. The wording had changed. Back then it said it will be somewhat visually intrusive. That was changed to screened to some degree. I just wondered if that was an editorial change or was it a change based on a change in the project itself. That wording is not in there now but in the previous version we got.

Mr. Lait: No, I don't think it was in response to anything. As I recall, in reviewing the reports I think one of those phrases was used before, and then it was changed. It probably just got reinserted in the course of making our Staff Reports. There was nothing meaningful behind it, other than just word choice.

Council Member DuBois: A similar question on Packet Page 208. It said Staff is concerned with the project's consistency with the first development criteria to minimize visual impact and concerns with the second criteria extending above the top of the knoll. It will be silhouetted against the sky. I'm wondering more generally if Staff has a feel for when they would insist on a change in plans to not be that high. When you read it, it feels like Staff had some concerns but went ahead and approved it.

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Mr. Owen: You're referring to Packet Page 208, which was the Planning and Transportation Commission Staff Report. When we took this to the Planning Commission, we wanted to ensure there was a public airing of what the Open Space Development Criteria were about. We do recognize that there's subjectivity in the criteria. One of the things we wanted to ensure was that—there is certainly going to be a project that's visible. What we wanted to do was get the Planning and Transportation Commission's take on whether that visual was intrusive or not, whether it was an impact. That's the judgment call that needs to be made by both the Planning and Transportation Commission and ultimately City Council as well. That was our intention with that, to ensure the development criteria were adequately addressed at a public hearing.

Council Member DuBois: The presentation calls it a guest house. Does Staff feel like we need more clarity on accessory structure versus ADUs versus guest house?

Mr. Owen: No, not necessarily. What we've done with the guest house—this was brought up at the Planning and Transportation Commission's hearing. The guest house/accessory structure was not compliant because it was going to be used as an accessory dwelling unit. The previous iteration of the plans, which the Planning and Transportation Commission reviewed, did include a kitchenette. It never showed any ovens or cooking facilities. Per our Code, it was not considered a dwelling unit proper. Owing to the concerns that were raised at the hearing and have been raised since the hearing by a number of members of the public, the applicant has dropped the kitchenette entirely from the project plans to ensure there isn't the perception that it's not Code compliant. However, Staff has been of the opinion that this has always been an accessory structure. Guest house is just a term that we've used, that's not defined in the Code. It is an accessory structure, which is permitted in the open space district.

Council Member DuBois: We also use structure to talk about sheds and garages and things. If we start to see a lot of these look like guest houses, then we might want to revisit this. It hasn't happened yet, so it's just a concern. I do want to thank the applicant—it was a very thorough presentation. I really appreciate the work you guys have put into it—and everyone in the community that came out. It looks like a lovely house. As you're hearing, it's rare that we get proposals in the open space. It's not something we talk about very often. As I'm sure you know by now, people really love their open space. I have some concerns about the mass. I really appreciate your commitments to screen it as fast as possible. Is the pre-planting now part of the condition of approval?

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Mr. Lait: No, the pre-planting is not part of the Motion and not part of the conditions at this point.

Council Member DuBois: You've agreed to do that?

Mr. Gecht: We agree. We'd like (inaudible) those trees (inaudible) and so on. (inaudible) you can put it (inaudible).

Council Member DuBois: If it's okay with the makers of the Motion, I'd like to include that as part of the conditions of approval.

Council Member DuBois: They would plant the screening trees at the start of construction.

Vice Mayor Kniss: That's fine, good idea.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion, "including the following change:

A. Add to the Conditions of Approval, 'plant screening trees at the start of construction.'"

Council Member DuBois: I think that was probably my biggest concern. It does look like you have a plan to keep them watered, especially if we get back into a drought. I said about the accessory unit. I think it's something we should watch and pay attention to. We did get a lot of letters of support from the neighbors. That did carry a lot of weight with me. I'm going to support the Motion with that addition about the trees.

Mayor Scharff: Council Member Tanaka.

Council Member Tanaka: First of all, I just wanted to thank the community for coming out and for the applicant working with the neighbors. I think that's great. The open space is a jewel of the community. I understand the importance and why we're trying to look at this really, really closely. The part I didn't quite understand from Staff—I just want to make clear. Is having a building above the ridgeline illegal? It's not illegal. I just wanted to make sure I heard that correctly. That's fine. Being 2 feet above the ridgeline is not an illegal act; it's just more of a preference. Is that the way I understand it?

Mr. Owen: Having development situated away from ridgelines and hilltops is one of the objectives of the Open Space Development Criteria. We have two lists of criteria we're looking at with this application. That is one of the

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things that should be considered. However, it's not a development standard like height, FAR, impervious cover, setbacks.

Council Member Tanaka: It's discretionary essentially.

Mr. Owen: It's subjective.

Council Member Tanaka: I also wanted to understand clearly what would be a basis for denying the project. What would be—obviously this 2 feet above ridgeline isn't. What is a valid basis for denying this project? Maybe the City Attorney can speak on this.

Mr. Lait: While the City Attorney prepares to answer that question about what would be the basis for denying the project, I would turn the Commission to the findings that are included in the report, which sets forth the findings for the Site and Design Review criteria. It would be if the Commission was unable to answer those findings in the affirmative.

Council Member Tanaka: The Commission hasn't ...

Mr. Lait: The Commission has reviewed those findings to this project and 5-1 found that it was able to make those findings.

Council Member Tanaka: For me, when those projects have some discretion, it's really important that the neighborhood buys into it. Just from the outpouring of support from the immediate neighbors, it seems like the neighborhood has actually bought into this project. That has impressed me. Thank you.

Mayor Scharff: Council Member Kou.

Council Member Kou: I have a couple of questions first. Actually, first I just want to ask. What is the Blue Oak development that was mentioned in one of the letters that had—no.

Mr. Owen: I'm not sure. I saw the letter, but I wasn't able to look it up.

Council Member Kou: Obviously our former Councils have found it important in order to have open space designations. They were actually very forward thinking. I think this is definitely a sensitive subject when building in open space. I really appreciate all the applicants have done in terms of making it as suitable as possible. I don't think anybody building in open space is going to find it easy to build over there. At the same time, I do want to acknowledge a lot of the users of the park and of the open space. It is a sanctuary. It's a place that we enjoy. I wish I went out there as often as some other people, but I don't have the time. It's unfortunate. It is a

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sanctuary, so I see your point as well. What gets me the most is the criteria that is stated, the development shall not be visibly intrusive from public roadways and public parklands. In looking at that, I know you've offered to put in the trees. Thank you very much. I want to know are these—excuse me. I think it's called deciduous. Are they that or they're non? Does the leaves fall off in winter time, that we're going to have visibility? Mayor, may Mr. Kephart ...

Mr. Kephart: The trees are going to be a combination of understory plants, deciduous trees, and evergreen trees. That mimics the structure of the existing forest. There will be some seasonality. When they're all blended together, the screening will obscure the house.

Council Member Kou: Thank you. Another question. It looks like it's going to take about 5 years for us to get almost fully screened. In order to lower the impact for the park users, is there any way—I was reading some of the comments by the Planning and Transportation Commissioner Gardias. He mentioned that there's—this is Packet Page 306. He mentions that some of these trees are slow-growing. Next to them, you can plant trees that pretty much obscure, but they grow quickly. When the other trees grow in, if you find it necessary to remove them, then you can remove those trees. Meanwhile, between the time you construct to the time that it does fully cover, maybe those other, fast-growing ones can help with more of the screening. People who do use the park, you're not having them look at the structure for 5 years or more.

Mr. Kephart: Absolutely we can include that addition of fast-growing trees and shrubs as part of the understory, as a foundation. You just have to condition it and add it in addition to what's already been in the report.

Council Member Kou: With that, I'd like to ask for a friendly Amendment to "A," Mayor or Vice Mayor.

Mayor Scharff: State your Amendment.

Council Member Kou: I'd like to add planting screening trees at the start of construction in addition to fast-growing vegetation or trees to further obscure the structure.

Mayor Scharff: Does Staff have any concerns with that?

Mr. Lait: Not with the principle behind it. I do have some concerns about—we'd want it to be consistent with the environment that's there. I don't know if it would fully screen the construction. If the interest is an effort to further obscure ...

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Council Member Kou: Just to shorten the time of having people look at the building rather than wait 5 years.

Mr. Lait: The other comment that I have—I think Graham has one as well—is about whether you'd want that to be removed as Commissioner Gardias was talking about or if this is something you'd want to see retained.

Council Member Kou: I would actually leave it for the applicant. There is an amount of trust that we have to put in their wanting to live and to build and to be part of the community, not just for the neighbors but also to the general public. There's an amount of trust that's placed into them for ensuring that they're keeping to the open space regulations. I leave to their arborist also to pick the correct environmental plants to put in there for the fast-growing screening. If you can help me with adding that in.

Mr. Lait: We can spend maybe a second trying to figure out what that Motion would be. I would also add that we have the City's own Urban Forester be a part of that review process, so that we have a City review (crosstalk).

Council Member Kou: That'd be super.

Mayor Scharff: I heard different things. Why don't you take a look at the language? I heard additional fast-growing plants, and now I see trees.

Mr. Lait: I heard vegetation and trees.

Mayor Scharff: We already have trees. We already probably have approved trees.

Vice Mayor Kniss: This is somewhat redundant.

Mayor Scharff: I think the question is—I understand what we're trying to do here, but we have a tree list that we're using. We probably don't want to be changing the tree list up here. I understand the intent. What I'm asking Staff to do is, understanding Council Member Kou's concern—what would be language that would address that concern without changing the plant list, without putting environmentally unfriendly plants, plants that aren't appropriate in the open space district? There's a whole range of choices that get made when you do a landscape design. I just want to make sure that—if Staff can't do that, then I think Staff needs to address that issue. I'm assuming you can.

Mr. Lait: I think we can address the issue. I would say that the trees and the vegetation that we're talking about are above and beyond the ten

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required replacement trees. We're talking about additional trees and landscaping subject to the City's urban forestry department to further obscure the residence during construction with the opportunity to remove those trees at the urban forestry and applicant's consent. Something to that effect.

Mayor Scharff: Council Member Kou, would you be fine with the language he just suggested?

Council Member Kou: I would be, if the applicant is. It looks like they're ...

Mayor Scharff: Is the applicant fine with that language?

Mr. Gecht: Just to clarify. In the beginning, we said all are both blue oak and live oak. Live oak, we find that grow a lot faster, so we decided to put only live oak. We already have fast-growing trees there; we can add more. We just need to make sure that all of them can live together. There's only so many trees you can put on this hill. (Crosstalk) as us, we would like to do that.

Council Member Kou: I appreciate that, but at this point my more concern is to ensure not only are you going to be able to build your home but at the same time the general public is going to be able to continue to use that park and not have that visual impact for that length of time.

Mr. Gecht: Same for us. We're committed, whether you put it in the restrictions or not, to work with the City Arborist to put the right trees that grow fast and screen as much as possible and will be, of course, native California and all that. We're committed to this. You can put it as part of those restrictions.

Council Member Kou: Thank you. I'd like to keep that.

Mayor Scharff: Staff, is that the language that's fine or you're going to work ... We still haven't heard from the maker and the seconder if they're going to accept it.

Vice Mayor Kniss: If I'm reading this correctly, the screening trees was Council Member DuBois. Correct?

Mayor Scharff: Correct.

Vice Mayor Kniss: What you're adding here, Council Member Kou, is additional fast-growing vegetation subject to review by the City's Urban Forester to further obscure the building. I wouldn't disagree, but I think we do need review. Having that assessment of what will grow fast but also

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what may not survive in that particular area would be important. Talking to—is it Dave Dockter who's going to be involved? If Dave Dockter is involved as our forester, he is obviously an expert at assessment. It's fine. The Staff is (inaudible).

Mr. Lait: I just wanted—I'm getting some language.

Mayor Scharff: You're going to change the language?

Mr. Lait: Yeah, I'm going to change the language.

Mayor Scharff: Let's get the language right.

Council Member Fine: I'll accept it, but I think we're quickly getting into the fast-growing weeds here.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to Part A of the Motion, "in addition to the required tree planting, the Applicant shall plant prior to the commencement of construction, fast growing vegetation and trees to further obscure the home during construction, subject to Urban Forestry review. These trees may be removed subject to the approval of the City's Arborist."

Mayor Scharff: Fast-growing weeds.

James Keene, City Manager: Round-up time.

Council Member Kou: I don't really think that's funny because there's the general public that we actually do have to take into consideration. This park is, as someone said, a benefit for thousands and thousands of people all around the Bay Area. I do take offense to that joke. This is going to be a family home for a family, but there are also thousands of others who are going to be using the park. With that, I would like to continue.

Mayor Scharff: Let's wait and make sure we have the language right. I don't want to lose the language. Are we good, Staff?

Mr. Lait: We're getting closer (inaudible).

Mayor Scharff: It's going to get posted in a second. Why don't you continue while ...

Mr. Keene: Can you post it without striking it first, David, so it's not lost?

Mayor Scharff: Is that okay, Vice Mayor Kniss?

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Mr. Keene: I think the main point is recognizing that it might be temporary during the early stages and ultimately be not necessary so that the language includes the potential for removal subsequently.

Vice Mayor Kniss: I'm not sure. Tom originally said plant screening trees. We're now talking about tree planting. Somewhere in here you need the word screening. That was the particular word that the Council Member put in.

Mr. Keene: Tom's language needs to stay.

Mr. Lait: That's right. This is an addition to Council Member DuBois' Motion.

Vice Mayor Kniss: The screening trees are going to stay there?

Mr. Lait: That's right. This is not a strike-out.

Vice Mayor Kniss: I really prefer that. It's all about the screening trees. Regardless of what else we include in this Motion, long term you want trees that will screen this. That's a distinct possibility. That's what I want to make sure gets underscored. Even though we're having this discussion about fast-growing vegetation, it may not have a long life. Trees do. We're really after very substantial trees that are going to do precisely what you're describing, Lydia, which is try to hide this from the public. There are many good examples up in the Foothills of houses that are quite hidden from view. I know that we have tracked this before. I'm going to be comfortable the Staff will continue to do it.

Mayor Scharff: You're fine with the language, Vice Mayor Kniss?

Vice Mayor Kniss: Yes, I'm fine with that.

Mayor Scharff: Adrian?

Council Member Kou: Is the second and Council Member DuBois okay with it?

Mayor Scharff: Council Member DuBois doesn't get a say in this.

Mayor Scharff: Council Member Kou, are you done or is there more?

Council Member Kou: I have some more. In terms of the guest house, that's always an issue to me when you have it named as a guest house. It implies to me that it could be a dwelling unit, somebody might be living in it. In addition to that, the plans that the applicant submitted shows that it's a facility structure or something like that to the name. However, in your Staff

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Report, it constantly mentions guest house. Why can't we just have the proper language in there?

Mr. Owen: I can respond to that. We kept the guest house language in the Staff Report to be consistent. The previous iteration of the plans called it a guest house. In the interest of showing this is a structure that has a living room, has bedrooms, has bathrooms, it's not an accessory dwelling unit because it doesn't have cooking facilities. We wanted to ensure that people knew what the intended use would be. For the zoning purposes, that's why I also called it an accessory structure; that's what the Code would define this structure as. Guest house isn't defined in the Ordinance, so it's an imprecise term. Accessory structure is what it is.

Council Member Kou: It would less complicate things if that guest house wording is not in there, and it's just using the correct language. I understand and appreciate the kitchenette has been removed. The thing is there's still bedroom indicated in the plan. Any time you have a bedroom indicated in the plan it gives thought to it could become a dwelling unit, somebody can spend time over there and sleep over. I do have a concern about that, how it's going to be enforced. I don't suppose you're going to be knocking on their door every so many years in order to check or every so many months. That's a concern for me. What Council Member Filseth has mentioned in terms of the height extending over the ridgeline. Is there any way that we can perhaps make an amendment in order to bring down the 2 feet?

Mr. Lait: Again, I think that's more of a question to your Colleagues.

Vice Mayor Kniss: I'm not going to accept that. I think we're getting ...

Mr. Lait: I was going to say that's a question to your Colleagues. The applicant has already made their statement to that issue. It's whether that's in the Motion or not.

Council Member Kou: I'll just be moving to ask for an Amendment.

Mayor Scharff: You have to state what the Amendment is.

Council Member Kou: The Amendment is that we have the applicant lower the facility structure to below the ridgeline.

Mayor Scharff: Do we have a second? Seeing no ...

Council Member Wolbach: I'll second that.

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AMENDMENT: Council Member Kou moved, seconded by Council Member Wolbach to add to the Motion, "direct the Applicant to lower the accessory structure to below the ridgeline."

Council Member Kou: I think I already spoke to it. Thank you. I want this to be consistent to what the open space is. If we keep on giving exceptions, then it sets a precedent for the next project. That's why I say ...

Council Member Wolbach: I just wanted to ask the Mayor if it's okay to ask the applicant if there would be any—if it would require any other negative consequences or tradeoffs, as you were indicating earlier. That's my only question about this. It seemed like the applicant was perfectly willing to do it. I just wanted to ask the applicant. In order to reduce the height of this structure by 2 feet, what kind of tradeoffs would be necessary?

Mr. Gecht: We move as much as we can into this area program because it's completely hidden. It's easier for us to keep the height so we don't need to dig. If that will be the condition tonight so we can get moving, we'll figure out a way not to risk the trees around that. There's really no victim there. If you guys feel it's important, we'll accept that then.

Council Member Wolbach: I just want to be clear. Does going down by 2 feet mean that you do have to dig further down (crosstalk)?

Mr. Gecht: We probably need to dig a little further down, and we were trying to avoid that. I can't say for 100 percent sure, but that's the way to (inaudible).

Council Member Wolbach: Now that I've heard that, I'm a little bit worried about damage to the roots or anything like that. I'm going to have to withdraw my second unfortunately. Sorry.

SECOND WITHDRAWN BY THE SECONDER

AMENDMENT FAILED DUE TO THE LACK OF A SECOND

Council Member Kou: That's okay.

Mayor Scharff: We have one more speaker, and that's Council Member ...

Council Member Kou: I'm not done. Sorry about that. I just want to confirm that this is going to be in the deed, the restrictions about future owners—if it should go to future owners, the trees and screening are going to be maintained. I see there is oversight or reviewing it to ensure the trees are fine and being maintained. How long does that go? It continues on with the lease until the building comes down someday. It goes on with the

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property, right? Is that what's confirmed in the restrictions over here? I just want to make sure.

Mr. Owen: As a part of the Site and Design Review criteria, one of the standard conditions is to have a covenant recorded against the property, that ensure the landscaping plan be returned to the Planning Department for review after 5 years. We've amended that to be 2 years as well through the condition of approval for this particular project. The covenant would be a part of this condition as a part of the conditions of approval for the project.

Council Member Kou: It's going to continue with future owners; it's just passed on, right?

Mr. Owen: Correct.

Council Member Kou: Thank you. I'm done. Thank you very much.

Mayor Scharff: Council Member Holman.

Council Member Holman: A couple or three things please. On Page 179—I think that's where it is. I'm sorry. On Page 178, it says the conditions of approval, Planning Division, one, the plan submitted for building permits shall be in substantial conformance with the plans last revised on March 13, 2017. The plans that I have are dated March 10. I don't think we got any new plans.

Mr. Owen: Is it date-stamped March 13th or is that the date that's indicated with the text on the plans?

Council Member Holman: It's date-stamped 3/27, but the plan date is March 10. What plans are we approving?

Council Member Holman: This is the Attachment H.

Mr. Owen: We received the plans on March 13th. The iteration that you have before you today should be that plan set.

Council Member Holman: It should be plans last revised or ...

Mr. Owen: Council Member Holman?

Council Member Holman: We need to clarify the language in the ...

Mr. Owen: Would you mind showing me on the plans where you're seeing the 3/10 language?

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Council Member Holman: No, I'm not—on the 3/10 language, it's what's part of the plans. Right here, March 10.

Mr. Owen: I think that's what the architect gave to us. We received them on the 13th. The iteration that you have should be the 13th set.

Mr. Lait: I think it's the same set.

Council Member Holman: But the City stamp says 3/27, not 3/13.

Mr. Keene: I'm not sure that—is that the City stamp or is that the Clerk's stamp for the materials ...

Mr. Lait: I think it's the Clerk stamp.

Mr. Keene: ... for the meeting?

Council Member Holman: How do we know what you received on March 13th is the same as what we have in front of us that's the plan set dated March 10? Can we just change the date to March 10 there? It says with the plans last revised on March 10 or the plan set ...

Mr. Lait: The reason we've done it this way is because we don't know what iterations of plans the applicant or might be in the file with that title date. What we do is, when the projects come in, we stamp it. In our administrative records, the official record for this project, there's a stamp that says March 13th. It's got the same title record, but that's the official plan set. That's the official record that we have dated. It's the same plan set that you have here.

Council Member Holman: Maybe we can find a way to make it more obvious. The reason I was confused about the trees earlier—I went back and looked at the landscape plans, these sheets. On L-1.0, it refers to—these are on the plan sets—new trees planted for mitigation, and it indicates which trees and has the circles for the trees. On the very next sheet, L-1.1, it says new trees planted for mitigation, but it also refers to them as replacement trees. It refers to them both ways. It also refers to them as blue oak and valley oak. I understand the applicant wants to do live oak, which would be better because they're faster growing and they're not deciduous. It seems we should add an amendment that says the mitigation screening trees should be live oak at the size indicated on Plan Sheets L-1.0.

Mr. Owen: The ten are mitigation for the replacement of the one diseased valley oak, which is being taken out with this application. They are both mitigation trees and replacement trees that are proposed to be planted on

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the site. In terms of live oak versus valley oak, I believe the Urban Forestry Division has given the option to the applicant of doing either a blue oak species or a valley oak species. Hopefully that clarifies it.

Council Member Holman: What about live oak? The applicant was saying live oak, and the live oak is not deciduous.

Mr. Gecht: I misstated. I'm not the expert. I should have let Paul speak. I meant valley oak, not live oak. What I'm understanding is that grows faster. We're open. This was determined by the City, not by us. We're open to whatever tree you guys feel is the best. We worked with Dave Dockter, and that's what he asked for.

Council Member Holman: Could we add just a short amendment for the City Arborist to consider the appropriateness of live oak or some other non-deciduous appropriate tree?

Mr. Lait: We're happy to put whatever the Council wants as far as your Motion.

Council Member Holman: Non-deciduous screening trees. Is that acceptable to the maker and seconder?

Mayor Scharff: What was the question?

Council Member Holman: Direct the City Arborist to consider the appropriateness of live oak or other non-deciduous trees as mitigation screening trees.

Vice Mayor Kniss: Fine with me.

Council Member Fine: I'll accept that. I assume that's part of his job.

Mayor Scharff: Before we accept it, is it fine with the Staff?

Mr. Keene: Fine.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion, "direct the City Arborist to consider the appropriateness of Live Oak or other non-deciduous trees as mitigation screening trees." (New Part B)

Council Member Holman: It has to do with the materials board. When I look at these and also refer back to the presentation that was given by the applicant, the plaster siding and the stone siding both are pretty light. They're fairly light here. When the sun hits them, they're going to be even

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lighter. I would just ask that the Staff look at—it seems like the value of the colors should be no lighter than either the wood siding or the stone flooring. That's what we typically do in the Foothills. I'll leave that to Staff to address. Again, when the sun hits these two colors, they're going to be really light and inconsistent with the setting. Those are my points.

Mayor Scharff: Thank you very much.

MOTION AS AMENDED RESTATED: Vice Mayor Kniss moved, seconded by Council Member Fine to adopt a Record of Land Use Action for a Site and Design application to allow the construction of a new two-story single family residence, detached guest house, and associated site improvements on the property at 670 Los Trancos Road including the following changes:

- A. Add to the Conditions of Approval, "plant screening trees at the start of construction and, in addition to the required tree planting, the Applicant shall plant prior to the commencement of construction, fast growing vegetation and trees to further obscure the home during construction, subject to Urban Forestry review. These trees may be removed subject to the approval of the City's Arborist;" and
- B. Direct the City Arborist to consider the appropriateness of Live Oak or other non-deciduous trees as mitigation screening trees.

Mayor Scharff: Let's take a vote. That passes unanimously. Thank you.

MOTION AS AMENDED PASSED: 9-0

Mayor Scharff: Thank you for everyone that came. Thank you for everyone that spoke. Let's take a 5-minute break, and then we'll reconvene.

Council took a break from 9:19 P.M. to 9:32 P.M.

9. PUBLIC HEARING: Ordinance 5408 Entitled, "Ordinance of the Council of the City of Palo Alto to Update the City's Below Market Rate (BMR) Housing Program as Recommended by the Finance Committee: (1) Repealing Municipal Code Section 16.47 (Non-residential Projects) and 18.14 (Residential Projects) (FIRST READING: December 12, 2016 PASSED: 5-3 Kniss, Scharff and Wolbach no) SECOND READING Continued From January 9, 2017;" and Ordinance 5409 Entitled, "Ordinance of the Council of the City of Palo Alto Adding a new Section 16.65 (Citywide Affordable Housing In-lieu Fees for Residential, Nonresidential, and Mixed Use Developments). The Proposed Ordinances are Exempt From the California Environmental Quality Act (CEQA) per Sections 15378(b)(4), 15305 and 15601(b)(3) of the State

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CEQA Guidelines (FIRST READING: December 12, 2016 PASSED: 5-3 Kniss, Scharff and Wolbach no) SECOND READING Continued From January 9, 2017."

Mayor Scharff: If we could start the Staff presentation fairly soon.

Hillary Gitelman, Planning and Community Environment Director: Thank you, Mayor Scharff and Council Members. I'm Hillary Gitelman, the Planning Director. I'm here with Eloiza to present two Ordinances regarding affordable housing impact and in-lieu fees. We've been through a long journey on this item. We have presented in the past to the Council the Planning and Transportation Commission's recommendation. We gave the Council a presentation back in December, went through all of the technical details of this. The Council took an action adopting on first reading the two Ordinances that are in your Packet this evening. The second reading appeared on your agenda early in this calendar year and was pulled from the Consent agenda, leading to tonight's hearing. Tonight what we'll do is review the recommended fees in the second Ordinance in your Packet. If the Council would like to make adjustments to those fees, we're also recommending a small change to one of the policy items in the first Ordinance in your Packet. First, we're going to review the commercial fees. There's a slide on the screen that shows a little bit of the journey. First column there starts by showing existing fees. Currently we charge an affordable housing impact fee of \$20.37 per square foot for office, hotel, and retail, restaurant, other uses. The original proposal from our consultants was to increase the fees for office and hotel to \$35 and \$30 respectively. The Finance Committee recommended an increase. The Planning Commission seconded that increase. This is for office. The Council ultimately adopted an Ordinance in December that had a \$60 per square foot fee for office/R&D, \$30 for hotels, and maintained the \$20.37 for other nonresidential uses. This slide shows the recommended fees for residential development. Those of you who have been engaged in this understand that the first three columns on this table, market rate single-family detached, market rate single-family attached, and market rate condos, all refer to ownership housing. Those are situations in which we impose an inclusionary requirement, a certain percentage of the units built onsite have to be affordable. These fees that we're showing are the in-lieu fee. If the units can't be provided onsite or aren't provided for some reason, these are the fees that would apply. The last row applies to rental housing. In this case, again, the existing fees are in the first column there. We currently charge an existing fee of a percentage of the sales price for ownership units, and we do not charge a fee for rental housing. There was a recommendation in the consultant's report to start charging a \$95 a square foot fee for market rate single-family detached and \$50 a square foot for all the other housing types.

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In the end, the City Council in December adopted the \$50 for all of the ownership products and \$20 a square foot for rental. In the course of its review, both the Commission and the Council consulted with other—looked at the fees in other agencies. This is a slide that shows the commercial fees in nearby jurisdictions. You can see for hotel the fees range from \$5 to \$18 a square foot. If you remember the previous slide, we're recommending a fee of \$30 a square foot. In the office/R&D category, the jurisdiction sampled ranged from \$5 to \$24 or \$25. Again, the Ordinance adopted in December was for \$60 a square foot. The consultant had originally recommended \$35. On the residential side, looking at nearby jurisdictions, you can look at what's being implemented in the jurisdictions listed here. Again, we're currently at \$50 a square foot for the for-sale product types and at \$20 a square foot for rental, which is actually lower than some of these comparable agencies. Finally, again if the Council would like to make changes to the fees, we're also recommending a change or an addition to the other Ordinance that you have in your Packet. This would provide some additional flexibility to the Council in situations where you'd like to receive the fees rather than the units in a for-sale inclusionary situation. Eloiza and I are happy to answer any questions. We're, of course, interested in your comments and those from the public.

Mayor Scharff: Thank you, Director Gitelman. I seem to have no cards from the public. Is that correct? I don't see any. We'll each have 2 minutes. Our first speaker is Bonnie Packer.

Public Hearing opened at 9:38 P.M.

Bonnie Packer: Hi, I'm Bonnie Packer representing the League of Women Voters. I'll speak very fast because I only have 2 minutes. You have the letter that we sent, that shows that the League has always been supportive of what the City's done with inclusionary zoning, and also we support a robust Affordable Housing Fund. What we want to note is the difficulty and the desire to ensure that there is this robust Affordable Housing Fund to support the development of multiunit housing for very low, low, and moderate-income people versus the desire to have a certain amount of units sprinkled throughout the City. The current housing crisis does demand a more aggressive approach to providing more multifamily housing. The League urges you to adopt an Ordinance that favors a robust Housing Fund. Table 6 of the Staff Report shows in a 20-unit development of detached single-family homes that would sell for over \$3 million, it's very unlikely the developer would be able to provide a truly below market rate home onsite. The in-lieu fee of \$50 a square foot that's being proposed would generate \$3 million for the Affordable Housing Fund, while the fee of \$95 a square foot proposed by Planning and Transportation Commission would generate \$5.7

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million for that fund. These amounts easily could leverage 10-20 times more units than that developer could provide on that hypothetical project. To make it easier to collect the in-lieu fees in such circumstances, the League supports the Staff recommendation to add that new section that's up there, 16.65.080(b)(3), which will provide more flexibility for a developer to show that it would be better to pay the in-lieu fees than to provide the units. We also recommend deleting the section that precedes that, (a)(5), that's overly burdensome and very draconian in that it clearly favors units over fees. If you'll allow me to go a little bit longer just to say one more thing.

Mayor Scharff: Sure, go ahead.

Ms. Packer: It shows that, as I pointed out, the different fees, the \$50 a square foot fee and the \$95 a square foot, would provide different amounts to the Affordable Housing Fund. The existing fee of \$50 a square foot on that hypothetical project would bring in less than our current in-lieu which is based on a percent of the sales price, 7.5 percent. That's kind of an interesting thing for you to consider. However, we realize that the higher impact fee of \$95 could have a chilling effect on development and could affect housing supply in general. Because the effect of the proposed impact fees on the City's affordable housing policies is uncertain, we recommend to review the fees within 2 or 3 years from now. Thank you for your time, and thanks for letting me go over.

Mayor Scharff: Thank you. Nicole Montojo to be followed by Peter Baltay.

Winter Dellenbach: I understand the—I certainly don't disagree with more bang for the affordable housing buck is better and that in-lieu fees often provide that. I'm a little bothered by the suggested language that's up on the left-hand screen because it gets so incredibly squishy. I like what it says right at the very end about pending affordable housing project, the need to finance a pending affordable housing project. That's pretty clear and understandable. Above it, for fees generated that would result in more affordable units, that's very, very general. You could probably say that about almost any project. That's almost all inclusive. It's almost a default. I don't think for a Code section just a general basket of a default section is particularly good language. It needs to be defined more if we want to beef up in-lieu fees. It needs more definition because, otherwise, everything will become in-lieu. I do think there's sometimes appropriate times for onsite below market rate units. I don't think we should completely give up on that. Compadre's right now—people were talking about Compadres earlier in the evening. There are two onsite units and a third that's in-lieu because it's a partial unit. It's a fractional unit. Also, oftentimes onsite units are larger because the units will have four bedrooms. Oftentimes, large families that

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are otherwise qualified for below market rate units have a very hard time finding a large enough unit because multifamily apartments are usually two bedrooms, and there's some three bedrooms. Four bedrooms are very hard to come by. You have people that have a really hard time finding larger units. That's a place where BMR really can fulfill that. Thank you.

Mayor Scharff: Thank you. Peter Baltay to be followed by Stephanie Munoz.

Nicole Montojo: Hello. Good evening, Mayor Scharff and members of the City Council. My name is Nicole Montojo, and I'm from Silicon Valley @Home. We are a nonprofit organization focused on affordable housing policy and advocacy throughout Santa Clara County. We strongly support the adoption of affordable housing impact fees for both residential and nonresidential development. Thank you for bringing back this issue. I actually came here today to raise our concern regarding the initial proposed process for alternative compliance. I'm really glad to see that Staff has already addressed that in their updated recommendation. We support what is being proposed today. Rather than the initial ranked preference, we recommend the adoption of a more flexible process that would allow developers to negotiate with Staff on a case-by-case basis to determine the alternative compliance method that best works for their project and also best meets the City's affordable housing goals. As Staff alluded to, this flexibility is really important because, in some case, the provision of inclusionary units, which was designated as the preferred compliance option, may not be the option that actually results in the greatest number of units for the City. We believe that the impact fee Ordinance should allow for this choice rather than imposing a strict inclusionary requirement. Thank you.

Mayor Scharff: Thank you. Now, Peter Baltay to be followed by Stephanie Munoz.

Peter Baltay: Thank you. Good evening. I'm Peter Baltay; I'm a local architect in town. I believe you have a small issue with how the residential fees kick in.

Mayor Scharff: Peter, aren't you also on our **ARB**?

Mr. Baltay: Yes, I'm on the ARB in Palo Alto. You all have seen me before here.

Mayor Scharff: You're not speaking for the ARB?

Mr. Baltay: No, absolutely not. I'm speaking as an individual and an architect working town. The residential fees seem to kick in when you do developments of over two units. I'd like to call to your attention that not all

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the projects in town are large, multimillion dollar houses. We're currently working with a software engineer in Silicon Valley who bought a 10,000-square-foot lot on Alma Street, wants to build something there to make a profit, but also to do what we think is the right thing. We're trying to build three housing units on this property. Each will be about 1,700 square feet. His total Construction Budget is about \$1 million. The goal is to make a small—what we'd consider affordable housing in Palo Alto. This is something we should be doing. If you look at the way your fees kick in, he's going to pay over \$100,000 for each unit for in-lieu fees. That motivates him to do the opposite, to build fewer units, to build them larger, to make them more expensive instead. I suggest you should consider making it more like over four units for residential stuff where this kicks in. Thank you.

Mayor Scharff: Thank you. Stephanie Munoz to be followed by Mark Mollineaux.

Stephanie Munoz: Thank you, Mayor Scharff and Council Members, for listening to me. I would like to provide a little more context to the propositions before you, taking into account the events that have happened since early January. We have had a new President inaugurated, and he has pledged to reduce tax credits. Not to reduce taxes on the rich, mind you, but to reduce tax credits. Candace Gonzales, as Palo Alto Housing Corporation, says—she's certainly an authority—we cannot build affordable housing without this stratagem of the credits that can be used for the affordable housing. I'd like to disagree with that. What we need is more open market, more free market housing. We need the Council to permit people who are willing to live with less space to share this space. I'm thinking about those 14 people that didn't get to live in somebody's house that he owned. It's the Council that says, "No, you may not have group homes." All of us, every one of us has lived in a group home. It's been satisfactory and certainly satisfactory if you have no other choice, if you have to leave your family in Anaheim, California. I believe that the Council should use its power and the power of flexibility to make more units to the acre, as one of the previous speakers suggested, quite a few more units to the acre. This would permit—if I had the other minute that I'm lacking, I would like to say the same thing. Thank you.

Mayor Scharff: Thank you. Mark Mollineaux to be followed by Herb Borock.

Mark Mollineaux: Hi there. If I could make one very small, modest suggestion. Another impact fee you could do is an impact fee on existing single-family houses, retroactively. Just do that for the market rate. It would do wonders. Just consider that. In general, this is a bunch of details about small impact fees for a system that just doesn't work. We're looking

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at small details and not really the big picture here. This is a question of allocation. We're allocating land; we're allocating the ability to build, and trying to make something we want, houses that people can afford and people like to live in. Allocation is hard. The Soviet Union suffered because they had all these panels of people trying to allocate stuff, and they did a terrible job. Palo Alto City Council, if you look at the bigger system, does do a great job. It's a hard job. Really, I think you need to lean on the market a lot more than you do instead of centrally planning everything here. More specifically, below market rate housing being done as a percentage of existing market rate housing doesn't work. Market rate housing, you don't get enough of it. More people are driven to not affording market rate housing. You don't build enough below market rate housing because you're not approving enough market rate housing. You have to approve more market rate housing, and that is not what you're doing. Community land trusts is something that works a lot better than this system. I really think that Palo Alto should be considering this as a way to use land to be developed densely for people not to speculate in property values going up and up. Instead, a place that people can live, sharing the land, and affordable housing. I don't think there's a lot of constructive things in that other than I think it's good to get out of the small picture and just consider is this ever going to be moving in a good direction, because I'm not really seeing it. Thanks for your time.

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

Herb Borock: There's been a suggestion that you should compare the fees in Palo Alto to the fees in other cities. People in the development industry also compare the revenue, the sales price. I don't think the fees in Palo Alto being different are going to create a disincentive and cause someone to build someplace else, where they cannot get as much money in terms of revenue. We just heard from an architect who says that a fee based on square footage will lead developers to build more expensive units than a larger number of smaller units. If the fee is based on a percentage of the sale price, as it is now, you wouldn't have that problem. Nine months ago, when you had approval of 567 Maybell before you, the developer asked you to not have a BMR unit onsite, but instead pay the fee of 7 1/2 percent of the sales price. Based on the numbers that he presented, that would have led to \$4.2 million in BMR fees. The \$50 a square foot would have been \$2.4 million. I provided you At Places now the actual numbers, that is the real project where, under \$50 a square foot, it would be \$3 million, and under the sales price, which our Mayor who's familiar with the industry, estimated between \$5-\$6 million per house, would bring in between \$6 million and \$7.2 million. Essentially if you do the \$50 fee instead of the 7.5 percent fee, it's millions of dollars of windfall profits to the developer of 567 Maybell. I have a

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compromise not because I support a compromise but if you're going to support a fixed fee per square foot, I should say it should take effect only after the last house is sold on 567 Maybell under the 7 1/2 percent BMR fee, which is what the developer said he's going to pay.

Mayor Scharff: Thank you. Jeff Levinsky.

Jeff Levinsky: Good evening, everyone. Herb was talking about my very first point. Even according to the table in the Staff Report, the City will lose approximately \$1 million by adopting this proposal. That's \$1 million that the developer had agreed to pay for affordable housing, but we're just going to give up. It seems to me that's the wrong direction. This is such an important item. I'm glad you're taking it up. I'm sorry it's so late in the evening, and we don't have more people to come out for it. Another aspect of this is the Staff Report doesn't seem to address what the \$50 a square foot policy will lose over the 7 1/2 percent. As I figure it out, only a property selling for \$667 a square foot would pay the same either way. If you look at recent condo sales in Palo Alto, we would lose almost half the revenue that we would get from those sales by adopting the \$50 a square foot. Again, I think developers are willing to pay the higher fee. We're just sort of giving up and accepting less money from them for that. Another issue that's a pretty big one is how well in-lieu money actually generates BMRs. I didn't see any mention of this in the Staff Report. There have been a number of concerns raised. Ms. Munoz raised the issue about the loss of Federal tax credits. There's also issues about loss of grant money from lower Federal funds, where do housing corporations find land to build BMRs, where's that all going to come from. You don't really know how a dollar of BMR In-lieu Funds translates into a real residence. It would be good to have some metrics on that so you can better understand the implications. Finally, if I don't get buzzed out, Director Gitelman made a really great point at a previous meeting about how higher inclusionary fees do not necessarily impact the sales price. I hope you look at that too. Thanks.

Public Hearing closed at 9:57 P.M.

Mayor Scharff: That was our final speaker. Now, we'll return to Council for questions, comments, and Motions. Council Member Fine.

Council Member Fine: Thank you, Mr. Mayor. I was one of the Council Members who pulled this. We didn't explain ourselves then. For me, having looked at this in the PTC a number of times, we wrestled with it because we were worried that the City was moving too quickly on these very important fees for a very important program, and we really hadn't reached the sweet spot in terms of what impact fees we want to set in order to maximize

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affordable housing, whether it's onsite or in-lieu. Just to step back for a moment. At a high level, I don't think we're ever going to have enough funding to support all of the BMR housing needs that we would like to see. While we are looking at ways to optimize the subsidy mechanism tonight, I take to heart some of the public comment, particularly around more density per square acre, smaller units, and ideas like community land trusts. I'm going to make a Motion in a moment, but I'm just setting it up. Our goal here tonight, as I understand from Staff, is to maximize funding for BMR, increase the stock of affordable housing in the City. We're also trying to ease the administrative burden for Staff in administering this program. We're trying to balance onsite affordable housing and in-lieu fees, which historically have produced the vast majority of Palo Alto's affordable housing. Since '74, we've produced about 450 onsite and over 1,600 in-lieu, to answer Mr. Levinsky's question. One thing we should be aware of is we don't want to use these impact fees as a way to punish development or halt office growth. That's not the point. In fact, that would really gut our BMR program. As affordable housing is one of the main concerns of Palo Alto, I think we can produce a schedule that incentivizes more rentals and more condos, which going forward and in the future is Palo Alto's most efficient way to produce housing. Furthermore, rental units disproportionately house our poorer residents. The Motion I'd like to make is we adopt Attachment A to amend the City's BMR program, include the recommended insert to amend 16.65.080(b)(3), and update the housing impact and in-lieu fees as follows: office and R&D, \$35 a square foot; hotel maintained at \$20.37; retail, restaurant and other maintained at \$20.37; market rate single-family detached, \$50 per square foot; market rate single-family attached, \$35 per square foot; market rate condos, \$20 per square foot; market rate rental housing impact fee, \$20 per square foot; direct Staff to come back to us in a year with a status update.

Council Member Wolbach: Second.

MOTION: Council Member Fine moved, seconded by Council Member Wolbach to adopt:

- A. An Ordinance amending the City's Below Market Housing Program; and
 - i. Add Section 16.65.080(B)(3), "notwithstanding Section 16.65.080 (A) (5), the City Council may accept fees in lieu of the alternatives in Paragraph 1 provided it makes a finding that special circumstances justify payment of fees over provision of ownership units, such as a finding that the fees generated would result in more affordable units than those required to be

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provided on site or that funds are needed to finance a pending affordable housing project;" and

- B. An Ordinance updating the housing impact and in-lieu fees including updating the housing impact and in-lieu fees as follows:
- i. Set the Office/R&D housing impact fee at \$35 per square foot; and
 - ii. Maintain the Hotel housing impact fee at \$20.37 per square foot; and
 - iii. Maintain the Retail/Restaurant/Other housing impact fee at \$20.37 per square foot; and
 - iv. Set the Market-rate single family detached in-lieu fee at \$50 per square foot; and
 - v. Set the Market-rate single family attached in-lieu fee at \$35 per square foot; and
 - vi. Set the Market-rate Condominium in-lieu fee at \$20 per square foot; and
 - vii. Set the Market-rate rental housing impact fee at \$20 per square foot; and
- C. Direct Staff to return in one year with a status update.

Council Member Fine: I've spoken to it. I'm going to work with David to make sure it's all good.

Mayor Scharff: I'll let Council Member Wolbach speak to his second while you get the Motion correct.

Council Member Wolbach: There was one thing that I mentioned when we took this up in December that I do want to reiterate without speaking to it at great length. When this came to the Finance Committee, I supported much higher fees than I supported when it came to Council. That's because we learned more; we talked to more people; we talked to people specifically who are on the boards of or work in affordable housing, who actually have to deal with the process of finding the land, getting the money, getting the approvals to have affordable housing. They emphasized that the singular focus we had when this came to Finance Committee on getting units onsite meant that we would decimate our Affordable Housing Fund. As important as it is to have onsite units at times, it's also imperative that we do have an

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Affordable Housing Fund. Through our Affordable Housing Fund, we can help affordable housing organizations like Eden Housing or Palo Alto Housing, leveraging our money with others to much more efficiently and effectively provide affordable housing for our community, especially at the very low tiers. The onsite or inclusionary units do tend to be the moderate or just below moderate range. I just want to emphasize that, as I said in December, was an oversight of ours at the Finance Committee. I'm glad that we have the Committee process, and we had this come back to us. I'm glad it wasn't passed immediately, and we had a chance to pull it from Consent in January and have another conversation about this. I'm not sure if all of my Colleagues in December fully appreciated that. That's an important point for us all to consider, especially those who weren't on Council when we had this discussion in December. As far as the individual numbers, I actually concur with all the numbers that are identified here. I do think it's important that we think about being reasonable, reasonable in the sense of trying to balance some important values. One is we want to have good justification for whatever we do. We want to be able to explain that in any forum. We also want to make sure that we do have money coming into our Affordable Housing Fund, which means we need to have something there, but it can't be so high that it would discourage development. I also think it's important that, while we can lead the region, I don't want us to be so far outside the region that we endanger ourselves in any way. This Motion, with the numbers listed here, does that effectively. It definitely does take us in a leadership direction for the region on office and R&D. If you look at Packet Page 327, Table 3, Page 7 of the Staff Report, the office and R&D numbers for other cities in our region, Cupertino \$20 per square foot, Mountain View 25, Oakland 5.44, Redwood City 20, San Francisco 16-24, Sunnyvale 15, Menlo Park 15.57. This takes us to 35, which is a big step and is an important signal also to the region that the priority should be housing in new development, not to prohibit office development. We're doing a lot to incentivize housing over office. This is just one more signal. It's importantly a way to have office and R&D pay its own way more than we've done in the past and a lot more than any of our neighbors that are listed in this table do, to make sure that office and R&D development really does pay its own way, and making sure to what degree it reasonably can offset the needs of affordable housing in our region. We can make arguments for much higher; we can make arguments for much lower. I've heard those arguments. This Motion strikes the right balance.

Mayor Scharff: Council Member Kou.

Council Member Kou: I think action speaks a lot louder than words. We're here with affordability being an issue. We're actually trying to figure out how to fund affordable housing. When I say affordable housing, I mean

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below market housing. I wanted to make that very clear. While Council Member Wolbach compares it with other cities and their impact fees, this consultant at the time had also stated that fees have not been updated for a while. Building in Palo Alto gives us a higher return on investment. None of the cities named in this report gets that return from themselves. Developers will not—I know, I don't think, I know developers will not stop looking to build in Palo Alto. I don't have any concerns that the pricing may stabilize. With economy and so forth, it may stabilize, but it's not going to depreciate. We've seen that in the years when we had a less than stellar economy throughout a large part of the nation. I will not support this Motion. I would like to make an Amendment to revert back to the fees that were in the Staff Report and not to—I would like to keep it at ...

Vice Mayor Kniss: You may want to do a substitute Motion.

Council Member Kou: Substitute Motion in that case.

Council Member Kou: In that case, I'll just proceed with the second reading.

Council Member DuBois: I would second that.

SUBSTITUTE MOTION: Council Member Kou moved, seconded by Council Member DuBois to adopt on second reading:

- A. An Ordinance amending the City's Below Market Housing Program; and
- B. An Ordinance updating the housing impact and in-lieu fees.

Mayor Scharff: I didn't hear that. You're making a substitute Motion. The substitute Motion would say ...

Council Member Kou: That we make this a second reading.

Mayor Scharff: We make that a second reading of the current Ordinance, the Ordinance as ...

Molly Stump, City Attorney: Interpret that to mean ...

Mayor Scharff: ... as is.

Ms. Stump: Yes. She's moving second reading on the Ordinance as approved on the first reading.

Mayor Scharff: Did you second that, Council Member DuBois? Council Member Kou, would you like to speak to your Motion?

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Council Member Kou: I think I said enough. Thank you.

Mayor Scharff: Council Member DuBois.

Council Member DuBois: I'm just speaking to the substitute Motion. If you have questions to the original Motion, I guess we'll come back to that.

Mayor Scharff: Yeah, I don't know. That's our procedures. If we're really efficient, maybe we can get out of here by 1:00. I'm hopeful.

Council Member DuBois: I would just say that this is a very recent item. We had a pretty full debate in December, which I do remember very well. Many of us want to actually build affordable housing. Hopefully we can all agree that's the problem we're trying to solve. There's a clear choice tonight. We're trying to figure out the right level based on the market in Palo Alto to raise affordable housing fees. We shouldn't lose sight of the benefit of onsite units in terms of socioeconomic balance, mixing affordable housing with market rate housing. Our debate in December was pretty far ranging. I thought we made some good compromises. We adopted some of the numbers the PTC recommended and the Finance Committee. When you look at these charts, it's been well vetted, the Staff recommendation, the Finance Committee, the PTC and our City Council recommendation in December. Most of these fees are inline or three or four of the numbers are inline. It's very difficult to react to these new numbers without some financial analysis of what those impacts are. There's a question of comps and which City fees are the best comparatives to Palo Alto. I did get my eagerly awaited March issue of the *DeLeon Insight*, which apparently I'm a subscriber to as every Palo Alto resident is. In the back, they have the value of houses in various cities by square foot. Making some data-based decisions makes a lot of sense. We all say we want to do the same thing. January 2017 data, this is residential, but I think the trends apply for commercial. A square foot in Cupertino is \$1,150. Mountain View, it's \$1,000 a square foot. Menlo Park is \$900 a square foot. Redwood City is \$920 a square foot. Sunnyvale is \$945. Palo Alto is \$1,700 per square foot. That's the value. These higher impact fees—property developed here is worth a lot more than in surrounding cities, in Menlo Park, Mountain View. We should charge more. We're getting the impacts from all this development. We could actually raise significant money for affordable housing. I don't think we discussed this in December. These fees aren't going to be deciding factor on construction. It's really mice nuts when you look at a lot of these projects. We maintain the office/R&D suggestion from Finance and the PTC. It was a PTC recommendation, that \$60 a square foot. I believe that's the right balance we're trying to achieve. We talked about this last week, making room for housing by not necessarily encouraging

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more office. I think we want to incent housing over office. These fees are a way to do that. I think the big question we should answer tonight is—I brought it up last week—who's benefiting, why are we lowering fees for commercial office. I don't think the people that need housing benefit from that, because I don't think we'll have the funds to build affordable housing. I don't think it benefits the voters who live here. We end up with less economic balance. It benefits the commercial interests. It's principally a benefit for developers. We're in a big boom right now. I don't think Council should be really focused on serving developers; we should be serving the voters. We should be trying to get affordable housing. I have a real hard problem with lowering these commercial fees on office and R&D. I think we ended up at a pretty good compromise last time. Again, there was some changes on both sides. We ended up with some numbers that were pretty close to what was recommended by all the bodies that have vetted this and actually looked at the financial impacts. I strongly feel that we should move forward. We've been looking at this for years. We've missed out on a lot of affordable housing money in the meantime by taking so long with this. That's why I'd like to see us just move forward the second reading tonight.

Mayor Scharff: I'm going to speak to this briefly. I'm not going to support the substitute Motion. The current Motion is a much better compromise. I don't really recall there being a compromise. I recall in February 2016 we were proposed \$35 by our consultant; I think our consultant had it right. When you look at what other cities' fees are for office and R&D, \$60 is outrageous and probably indefensible. It's huge. The notion that we should make policy and incentivizing not having office through a fee structure rather than zoning to be inappropriate. The goal here should be not to try and incentivize or not incentivize. It should be to have affordable housing without hurting housing production. This cuts it right. I think the hotel number is the right number at \$20. If you look at other cities' hotel numbers, they're as low as \$2.50. At \$20, we're still 2X at that. When we look at office, you have Mountain View at \$25. Us being at \$35 is the highest in the region. To go to \$60 would be 2X on anyone else's fees at office. I don't think that's a compromise. What you want to do is be judicious and not move in a radical way. Frankly, going from \$20 to \$60, which is a 3X increase, is a radical and not judicious move in my view. I didn't view it as a compromise. We were just moving too fast on that. We were going against what our consultant viewed as the highest that was appropriate for that, which was the \$35. I think it's a mistake when we don't follow our consultant's advice on the highest number. You can go lower than that. To go higher than that is not where we should be heading. When we get back to the original Motion, I do also have some comments. Tom, you'll have some comments on the original Motion. I won't make them now.

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Mayor Scharff: If we pass the substitute Motion, we're just done. We can get out of here. I actually don't think there's anything else on that. Let's see. What else did I want to say on that? Was there anything on the substitute Motion? No, I think that's good for now. Council Member Filseth.

Council Member Filseth: I am going to support the substitute Motion. I don't think it's an issue of deterrence instead of zoning. Actually none of these numbers is going to be a huge deterrent given the scale of the numbers involved. The issue is going to be how much money we raise for affordable housing. More broadly than that, commercial developers (inaudible) mostly and then a second about residential here. Commercial developers should pay the full cost of their impacts on the community. The fact is none of these cities actually recover all their costs from this kind of thing. In this particular case, in Silicon Valley each R&D job produces something like four lower-paid jobs to go with it. Some of which—where are these people going to live? Some of which are very low paid jobs. The fact is that the impact costs actually are higher in Palo Alto than, for example, in San Jose, where there's substantially better mass transit, a big local workforce, and significantly lower housing costs. There is a bigger cost to the community to locate your R&D facility in Palo Alto than it is in some other cities. If we give a break to developers, then somebody else is going to have to pay that cost or else we're going to, in this particular case, shortchange affordable housing. I don't think we should do that. That's the commercial issue. The observation I'd make on the residential is a couple the speakers have made already. This was an issue when we started discussing a percentage of sales price versus flat fees. If you take a two-bedroom condo in Palo Alto, that's probably 1,200 square feet and probably sells for about \$1.5 million, 7 1/2 percent of that is \$112,500. If you get rid of the 7 1/2 percent and go to a square foot fee of \$50, then the impact collection drops to \$60,000. Basically, it cuts it in half to go from the current status, 7 1/2 percent, to \$50 a square foot. If you then cut it again to \$20 a square foot, then you've basically made a 75 percent or 80 percent reduction in the impact fee you collect on a condo. That's too much of an impact to the Affordable Housing Fund. All these things produce a need for affordable housing. I'm going to support the substitute Motion.

Mayor Scharff: Vice Mayor Kniss.

Vice Mayor Kniss: Let me just ask two questions right away. How much do we have currently in our In-lieu Fund?

Ms. Gitelman: We have two housing funds, the commercial and the residential. Some of that is set aside for the Buena Vista project. Even above and beyond the \$14.5 million for Buena Vista, we have \$10-\$12

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million in addition. I don't remember offhand, but it's not an inconsequential amount of money.

Vice Mayor Kniss: You're saying it's how much beyond the 14?

James Keene, City Manager: \$10-\$12 million.

Vice Mayor Kniss: \$10 or \$12 million.

Ms. Gitelman: I think that's right.

Vice Mayor Kniss: We've got somewhere heading toward \$30 in there at this point, taking the Buena Vista money out. Secondly, we're talking about office/R&D development. How many projects do we currently have that people have applied for? This is March; this is the deadline. How many projects are in the pipeline?

Ms. Gitelman: We don't have any projects that are 50,000 square feet or above, that would be subject to the office annual limit. We do get smaller projects that are exempt from that Ordinance. If you recall, you can do up to 2,000 square feet without competing in that program.

Vice Mayor Kniss: Up to 2,000, so there's nothing over 2,000 square feet that's waiting?

Ms. Gitelman: That's correct.

Vice Mayor Kniss: Sounds like we're in demand. I'm not supporting the substitute Motion. I'm consistent. I voted that way in December, and I will continue my vote. The questions I've asked really answer the issues that have come up.

Mayor Scharff: Council Member Holman.

Council Member Holman: I will be supporting the substitute Motion. Even at that, I'm not terribly, terribly thrilled for the reasons that Council Member Filseth identified in his math. I did the math at a 1,700-square-foot house. At \$1,700 a square foot, the sales price is basically \$2.9 million. At 7 1/2 percent, we get \$216,000 in impact fees. At \$50 a square foot, we get \$85,000. It's a step backwards even doing what we supported and proposed in December. I don't think we ought to be taking a step back. There were comments during the recent campaign that we needed to raise our City revenues. These are revenues for specific purpose. Nevertheless, they're revenues. They're revenues we need to create affordable housing. The one thing that everybody heard during the last 2 years or so has been we need housing, we need housing, we need housing, we really need affordable

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housing, affordable housing, affordable housing. Even with the substitute Motion and what was passed in December, we still generate less than what we would have generated under the prior proposals at 7 1/2-10 percent of sales price. It merits reiterating. When we're comparing to other cities, the Staff and the consultant were very, very clear. The other cities have not updated their fees in many years. They're just starting that cycle. To compare our rates to other cities is not a relevant checkpoint. It's really not. I will definitely be supporting the substitute Motion, and I urge Council Members to do the same. If you're serious about wanting to create housing, you're serious about wanting to do that by supporting it with affordable housing fees, I really encourage you to support the substitute Motion.

Mayor Scharff: Council Member Wolbach.

Council Member Wolbach: I will not be supporting the substitute Motion. Council Member DuBois said something which deserves a response. He said that he doesn't think we should be serving developers. I agree. I don't think the main Motion, the original Motion, is designed to serve developers. The suggestion that it is, is not appropriate and, frankly, political. A couple of years ago, I was against the office cap. I said what I'd rather see is we make developers and we make the business part of our City pay its own way through high fees. That's the way to do it. I said let's explore setting higher fees in order to make the business sector pay its own way for things like transportation and housing. I was convinced to support the office cap by some of the same people who are now supporting the substitute Motion. I was convinced to support the office cap as a better alternative to make sure that our business sector and the increasing number of jobs in Palo Alto help mitigate the impacts that come with that. Not that we're anti-job, but there are pros and cons with everything. The demand for housing, the demand on transportation is something we do recognize is important. We do want to make sure the business community, whether its developers or employers, help mitigate those impacts. I think we've all agreed that's important. The question is how to do it. A couple of years ago, I was convinced the way to do that wasn't just by slapping fees on them, but through the office cap. On top of that, we're also exploring raising additional funds. It'll probably end up being through essentially a headcount job tax; although, we're still exploring the details to raise money probably mostly for transportation initiatives. Again, making sure jobs in Palo Alto, the business sector, pays to help address the challenges we have. I want to make sure that we're genuine in the arguments we're making about these issues. It's really a question of what are the best policy mechanisms to make sure we mitigate the challenges that come with having such a high job concentration, where we have over three jobs to every one employed resident in Palo Alto. Just a week ago, I was proposing that we help address that imbalance with

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numbers in our Comprehensive Plan EIR, and those people supporting the substitute Motion were not terribly supportive of addressing that. I do credit Council Member Holman at least on half of that balance. We didn't find a lot of support from those supporting the substitute Motion here. I want to make sure we're consistent and we're genuine. There are real choices here, but the choices are about what are the best policy mechanisms, adding them together. Comprehensive Plan, like job tax for transportation, office cap on an annual basis, which has had clearly a very dramatic effect on office development applications, and also our in-lieu fees, how do we have each of those be defensible? How do we have each of those components of our whole package be reasonable, defensible, and clear and work together to create the balance that we need in our community?

Mayor Scharff: Let's vote on the substitute Motion. That's fails on a 5-4 Motion with Council Members DuBois, Kou, Filseth, and Holman voting yes.

SUBSTITUTE MOTION FAILED: 4-5 DuBois, Filseth, Holman, Kou yes

Mayor Scharff: Now, we return to the main Motion. I see no lights. I know Council Member DuBois wanted to make some comments on the main Motion.

Ms. Gitelman: Mr. Mayor?

Mayor Scharff: Yes.

Ms. Gitelman: I'm sorry. Could I take just a few moments and offer a clarification? Some of you have been pointing this out. I just wanted to say we have the data in Table 6, your Staff Report Packet Page 331, that compares the existing 7.5 percent fee as it's applied to these three different prototype projects and compare that to the fees that have been proposed. Eloiza just did a quick calculation of what the Motion fees would do. We really would be collecting quite a bit less for these types of projects per unit than we currently do with the current fee structure. We just wanted to make sure the Council was aware of that. With the \$50 fee for single-family detached, we would be collecting about \$150,000 square feet per unit as opposed to the \$228,000 currently. For the single-family attached, we'd be collecting about \$73,000 per unit as opposed to \$124,000 currently. For the condominium product, we'd be collecting about \$42,000 per unit with the fee that's proposed rather than \$104,000. I just wanted to make sure you were aware of the magnitude of that change.

Council Member DuBois: That was my first question. Thank you. The revenue impact again or the reason this is taking so long is we've been studying the impacts of these fees. These new numbers seem to be pulled

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from somewhere. We need to understand the financial impact. That was just the residential side. I don't know if you guys can say what the impact would be on the commercial side.

Ms. Gitelman: The Motion proposes raising one of the commercial fees and leaving the other two the same. We don't have the same concern where we're actually lowering an existing fee and affecting the expectation about what (crosstalk).

Council Member DuBois: You can go lower than the Council-recommended fees.

Ms. Gitelman: That's right, but they're not lower than the existing fee. The existing fee of \$20 and change is proposed to be raised to \$35 for office/R&D.

Council Member DuBois: Under the new Ordinance, can you clarify who determines if in-lieu fees would be paid? Is that the City or the developer?

Mr. Keene: You mean with the proposed language change?

Council Member DuBois: Yeah, in the case of infeasibility with the new language.

Ms. Gitelman: The way the first Ordinance is drafted there's certainly a preference for units being created onsite, the inclusionary requirement being achieved onsite. In-lieu fees are paid when there's a fractional unit or when that's infeasible. What we're proposing in the additional language is a provision that would allow the Council to use its discretion to accept in projects where there are special circumstances payment of fees rather than units being provided onsite.

Council Member DuBois: That would have to be an actual pending project?

Ms. Gitelman: It would be the Council exercising an option in that case.

Council Member DuBois: It says it would have to be a defined project.

Mr. Keene: That's one of the rationales. There are others.

Ms. Gitelman: It requires a finding of special circumstances, and those special circumstances could be a finding that it would aid another project. It could be another finding of special circumstances.

Council Member DuBois: It could be anything.

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Ms. Gitelman: Yeah. We'd have to say there's a situation that warrants a particular course of action.

Mr. Keene: Can I just add? My understanding is despite the fact that it identifies possibilities, the Council would have full discretion on either accepting it or not.

Council Member DuBois: Just to be clear. On the residential fees, that's only collected if they're not built onsite. Is that correct?

Ms. Gitelman: That's correct. And in the case of fractional units.

Council Member DuBois: A quick comment. I want to underline what we're voting on. What I think I've heard is proposals to cut our affordable housing finances by about 75 percent on the residential side. I think it's a huge give-away on the commercial office/R&D side. Keep in mind that reducing our affordable housing fees—those fees are leveraged three to four times as we've discussed in the past. I think we're going to have a huge impact on our affordable housing programs. LA's raising \$100 million for affordable housing. Other cities are going the other direction, that are updating their fees. To speak to my comments earlier about balance, in the report looking at the feasibility analysis, we had a good nexus report. It looked at the maximum amount of fees, the feasibility analysis. (Inaudible) compromises. Last time we did compromise; we lowered the fee on the rental housing from \$50 to \$20. When we talk about office, our office rents are at least 2-2 1/2 times higher than other cities. If you multiplied our rate by 2-2 1/2, you end up with \$50, \$60 per easily. I'm going to stick with my comments that this is not benefiting affordable housing. It's benefiting commercial interests and developers who are developing office and R&D space. I think it's really the wrong move for our Council, so I'm not going to support.

Council Member Wolbach: In December, I made a Motion that was not successful. It was not very well supported to say if we change from the existing fee structure for market rate detached, attached, and condos, to the new recommendation, whatever the fees are, it's going to be a cut; we're going to have reduced revenue as we just heard Staff point out. I proposed in December that we retain the existing structure, the existing process for the single-family detached, attached, and condos. Maybe Staff can remind us why my suggestion at the time wasn't very popular and what the importance of—this is again what I've learned over the last couple of months. Maybe Staff can explain their thoughts on moving from the old structure to the new structure as far as administrative burden and predictability.

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Ms. Gitelman: Thank you for that question, Council Member Wolbach. One of the primary objectives that Staff had in undertaking these nexus studies and reviewing these fees is to see if we couldn't change the methodology for the current in-lieu fee, because it is such a burden to track housing projects, not just until they're permitted, not just until they're constructed, but until they're sold. Charging 7.5 percent of the sales price, we just don't think it's efficient. We think we may be missing things. It creates a lot of work for us to try and track these things. Transitioning to a per square foot fee would be much more preferable for us. We tried to bring forward recommendations that, at least for the prototype projects we studied, would be generally comparable to the 7.5 percent. We wouldn't be either dramatically raising or lowering the fees as we recommended them.

Council Member Wolbach: Thank you, I appreciate that. I'm not excited about what the changes mean on the residential side for our Affordable Housing Fund. A couple of things I do want to keep in mind. One is—that was one of the goals, to change the process. Comparing to the existing fees I don't think is the right thing to do. Staff has basically implored us to move away from that process. Then, the question is what's justifiable, what can we look at people and say this is reasonable. I'd like to point out that, as Council Member DuBois pointed out in a previous meeting, we should be encouraging ownership, which means condos and rentals, following that logic, ought to be the same level, which is why I support changing them to match. We could make arguments for higher; we can make arguments for lower, but this strikes the right and justifiable balance.

Mayor Scharff: I'm going to weigh in quickly. A couple of things. First of all, the Motion doesn't discuss and I don't think Staff discussed pipeline projects. I wanted to understand how that worked. If you have a pipeline project that would be a single-family home, subdivision, or a condo project, you're collecting that fee when they're sold. If we pass this Ordinance, would they then be able to argue—you've already been tracking that—they get \$100 or \$50 or whatever we end up? I think we should add that pipeline projects—I'll say this. Residential pipeline projects, I don't think we even have any commercial projects. Residential pipeline projects that are in the pipeline should be grandfathered in if they currently have approvals. Would that be the right—I'm looking for a little help on this because I want to get it right. It seems to me that projects that already have approvals, that are being built, should continue under the old system of 7 1/2 percent.

Mr. Keene: If that's what you mean by grandfathering?

Mayor Scharff: Yes.

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Ms. Gitelman: Let me make sure I understand. The way the Ordinance is written, when it becomes effective 60 days from adoption, we would charge a fee at the building permit stage. You're saying if anything has gotten past the building permit stage, we should continue to collect the 7.5 percent at sale. For anything that's still pending and hasn't got to the building permit stage, the new fee would apply.

Mayor Scharff: That is what I'm saying.

Ms. Gitelman: Correct.

Mayor Scharff: To phrase that properly, I would say residential pipeline projects that have a building permit—was that the correct thing? I actually think it's not even a building permit. That's too late because they may or may not have—it's final approvals or whatever that ...

Ms. Gitelman: The Ordinance currently says that the new fees will be charged except in the case of a project that already has a vested right. If something has a building permit ...

Mayor Scharff: The Ordinance already addresses that. I guess I missed that.

Ms. Gitelman: What it doesn't address is—I think the issue you're raising is what happens if there's a project out there that has gotten its building permits, it's started construction, maybe it's even finished construction, but the units haven't been sold yet.

Mayor Scharff: That's right, exactly.

Ms. Gitelman: You're saying we should make sure that there's something in the Ordinance that requires those people to continue to pay the 7.5 percent.

Mayor Scharff: That's correct.

Mr. Keene: What he's saying is, is the building permit the right point for making the determination about them basically.

Ms. Gitelman: Yes.

Mr. Keene: There's nothing before that?

Ms. Gitelman: No.

Mayor Scharff: Should it be building permit or should it be final approvals?

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Ms. Gitelman: I think it should say residential pipeline projects that have a building permit but have not yet paid their fees shall be subject to the current fee schedule of 7.5 percent.

Mr. Keene: And all others are ...

Ms. Gitelman: Are covered by the Ordinance and will be subject to the new fees.

Mr. Keene: Covered by the prior Ordinance.

Mayor Scharff: Would be covered by the Ordinance.

Ms. Stump: The language of the Ordinance that you described essentially says that. It does say that. Is there a reason why we're adding an additional term in the Motion?

Mayor Scharff: No. I understood it didn't say that. That's what Hillary indicated to me, it didn't cover that situation.

Ms. Gitelman: What it doesn't say is what happens if there's a project that has been vested but hasn't yet paid its fee. Currently our fees are due at the point of sale. If there are any projects in that Neverland between building permit issuance or vesting and sale, we want to make sure we capture the fees under the existing fee.

Mr. Keene: Which would be the percentage. The City Attorney is saying we think the language in the Ordinance is already there. Nonetheless, you're not harmed if you wanted to be redundant and make the point.

Mayor Scharff: I'm leaving that up to Staff . I really raised the issue. If it's redundant, I don't need it. I just wanted to make sure we dealt with that issue. Some of the speakers, for instance, were talking about Maybell. I assume the Maybell project would have the 7 1/2 percent?

Ms. Gitelman: Actually, the building permits have not been issued for that project. It would be subject to the new Ordinance provided they're not issued until this becomes effective.

Mayor Scharff: They have vested rights. Are we basing it on building permits or vested right?

Ms. Gitelman: I don't think they have vested rights. What they have is a parcel map.

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Mayor Scharff: That's why I wanted to get back to if you have current approvals. If you have final approvals, you would then be under the old system.

Ms. Gitelman: They don't have an approval. They have a map.

Mayor Scharff: I'm going to move, as an Amendment, if a project has final approvals, which is what we call—what do we call it when you come do Council and you've gotten your approvals or you've gotten your administrative approvals from Staff? When you have a right to pull a building permit, basically, which is where they are.

Ms. Gitelman: We call that a planning entitlement, which again Maybell does not have. They have to go to ARB still.

Mayor Scharff: They do. They don't have their entitlements. What do we call the stage when you come to Council and get approval?

Ms. Gitelman: We call that a planning entitlement.

Mayor Scharff: You said you don't have that because you have to go to ARB afterwards. That's to figure out different issues.

Ms. Stump: That was a parcel map. That was a map that came before you. Things come to Council for different reasons.

Mayor Scharff: That was just a parcel map.

Ms. Stump: I have a recollection that Council discussed the affordability issue for that project. We're just not recalling exactly how that was documented and whether that was somehow a condition that would be enforceable.

Mayor Scharff: I don't believe it was. My recollection is that it was not a condition. Basically, there was a discussion that they would pay the 7 1/2 percent. That was the idea, and I wanted to make sure they pay the 7 1/2 percent, frankly. That's where I am on this. I was looking for whatever the term—if I'm saying planning entitlement, you're saying it's not there because they didn't go to ARB yet. That doesn't work.

Ms. Gitelman: This is really one of the reasons that we recommended \$95 a square foot for the single-family detached. It's relatively comparable; in fact, it might be incrementally more than the 7.5 percent we currently charge.

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Mayor Scharff: If we didn't want to do more, if we wanted to do equivalent to the 7.5 percent, what does that look like?

Ms. Gitelman: From the data in Table 6, we know it's somewhere between \$50 and \$95, and it's probably closer to the \$95 a square foot. We can try and do the calculation right now.

Mayor Scharff: You can do the calculation?

Ms. Gitelman: Yeah. If you give us a few minutes, we'll try.

Mayor Scharff: I'll give you a few minutes. I'm going to talk to this briefly and say I have similar concerns to Cory on making sure we don't depress housing in terms of condominiums, in terms of maybe small lot attached. Frankly, I have less concern with single-family. I don't think we're going to be doing big single-family subdivision. I have less concern that we're going to lower the production of single-family housing by having a higher fee. I was willing to go with the \$50 because that's what there was consensus around the Council on. I, frankly, was perfectly fine with \$95 or \$90. I didn't really want to raise it above where we were before. I have had some concerns on the 7 1/2 percent as we look at this and as I think about it here. However, I also wanted to add into here that—I'm going to add this while you do the thing and see how people feel about that. If someone is building an ADU, they should not have to pay the \$50 or \$100 on their square footage on the ADU. The idea of that is it would be somewhat affordable housing. To make an ADU—you want to encourage them to not make them more expensive so that you need to rent or you need to—for a higher price. I guess I would make the—I will ask Staff. The question is this. Under our current proposal, it would apply to ADUs. There's no question in my mind under the Ordinance. The question is ...

Ms. Gitelman: ADUs are exempted in this Ordinance.

Mayor Scharff: They are exempted?

Ms. Gitelman: Yes.

Mayor Scharff: We're fine on that. I guess I was wrong about that. Do you have a number?

Ms. Gitelman: It depends on how many units you build at once.

Mayor Scharff: We're talking about single-family.

Ms. Gitelman: Single-family detached. If you build 20 units at once, you could charge about \$75 a foot, and it would be comparable to the 7.5

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percent. If you build 16 units at once, like the Maybell site, it would be a lower number. It'd be more like \$65. We haven't done exactly the calculation of that.

Mayor Scharff: Say you build one unit, which is our most likely.

Ms. Gitelman: Again, you're not going to ...

Mayor Scharff: Or two units. We don't do it. We only do it for more than two units, right?

Ms. Gitelman: Three or more.

Mayor Scharff: Three or more. It's three or more. I'm fine with the \$95. I'll let anyone else see if they want to make the Motion. I'm fine with the \$50 as well. I'll start with the \$50. Were we at \$50?

Mr. Keene: You had 50.

Council Member Fine: I think you should ...

Mayor Scharff: I will make an Amendment that we go to \$95.

Vice Mayor Kniss: I'll second that. I think you've got a good argument.

AMENDMENT: Mayor Scharff moved, seconded by Vice Mayor Kniss to replace in Part B.iv. of the Motion, "\$50" with "\$90."

Council Member Fine: Would you consider the levels that Director Gitelman just came up with, \$75, or do you want \$95?

Mayor Scharff: It would be perfectly fine if that would get you to accept it.

Council Member Fine: \$75 I'll accept.

Mayor Scharff: Cory?

Council Member Wolbach: I'll accept that as well.

AMENDMENT RESTATED AND INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to replace in Part B.iv. of the Motion, "\$50" with "\$75."

Mayor Scharff: That's what I had. Council Member Filseth.

Council Member Filseth: We've got single-family housing at \$75 a square foot, and R&D/office at \$35 a square foot, which means we're charging twice

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the impact fee per square foot for single-family housing versus R&D/office space. It seems really odd to me.

Mayor Scharff: Council Member Tanaka.

Council Member Tanaka: I just wanted to ask Staff. You have a nice comparison for other cities for hotel and office. Do you have the same comparison for retail?

Ms. Gitelman: No, we don't because we're not proposing a change to the retail.

Council Member Tanaka: The only reason I'm asking is the Council is trying a big effort to keep retail in the City. We have a lot of retail-oriented Ordinances to try to make it happen. I'm just wondering whether this might be an opportunity—retail does struggle here in Palo Alto. It's hard to keep retail in the City. Retail also does provide sales tax, which of course we could use. What I'm thinking is—do you have any idea what retail is in other cities at all?

Ms. Gitelman: We didn't look at it. I'm sorry.

Council Member Tanaka: In general, we're making a big effort to try to get retail in the City. It's almost like the concept of BMR units for commercial. Retail doesn't have the margins as other uses; yet, it provides services for residents and also provides tax dollars for the City. Because we don't have much of a basis, it's hard for me to even know whether it's high or low. Maybe we go on and Staff can research what this is and come up with an answer, hopefully, before this meeting ends.

Mayor Scharff: Council Member Holman.

Council Member Holman: I appreciate the move on single-family homes to \$75. I appreciate that. I also think the comment that Council Member Filseth made is kind of striking that we're charging more than twice as much for a single-family house as we are office and R&D. I don't have data on this. I do know there is perhaps the reason we don't have very much office development right now is because we have existing office space that's vacant. We have existing office spaces that's been built, and people haven't occupied it. I don't have data on that, but I do have comments from property owners and for rent signs that are up. I would propose as an Amendment that office and R&D be raised to \$50 a square foot, which is less than where we were previously but higher than where it is now.

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Council Member Fine: I'm not going to accept that. It's not lower than where we are. We're currently at \$20, so \$35 is still an increase there, \$75 percent.

Council Member Holman: I thought office/R&D was at \$35. Isn't it?

Council Member Fine: It's at \$35, going up from \$20.37.

Council Member Holman: I was thinking from where we are now meaning what had been previously recommended. That's what I was referencing it to. Is there a second for taking that to \$50?

Council Member Filseth: I'll second.

AMENDMENT: Council Member Holman moved, seconded by Council Member Filseth to replace in Part B.i. of the Motion, "\$35" with "\$50."

Council Member Holman: Just a quick comment on that. Palo Alto, hopefully, we can keep it a desirable place to be. An impact fee of \$50 a square foot is not going to be a deterrent to inviting and welcoming office to locate here. I think \$50 a square foot is reasonable. That's why I'm proposing it.

Mayor Scharff: We could be here all night. If anyone really has to speak to this, because everyone could speak to it—when the substitute Motion was made, a lot of this was spoken to.

Council Member Holman: Does Council Member Filseth get to speak to his second?

Mayor Scharff: He does. I'm going to obviously let Council Member Filseth speak to his second. I was just asking that if you don't have to speak to this, don't. If you want to, you obviously can. Council Member Filseth.

Council Member Filseth: As the Mayor pointed out, most of this has been said. I'm not going to repeat that. I actually had a question on this for Staff. Talking about pipeline, we just approved 429 University a month ago, which has another 10,000 square feet of office space or something like that. Would this schedule not apply to that?

Ms. Gitelman: The new fees would apply to that. At the building permit stage, we'd collect either the existing fees or, if this Ordinance is in effect, the new fees.

Mayor Scharff: Council Member DuBois.

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Council Member DuBois: I just want to—I've heard Council Member Tanaka talk about raising revenue multiple times. I would just say, Greg, you should think about this again. I know you were on PTC, and the PTC, I think, recommended a higher rate. This is a way for the City to generate revenue for affordable housing. I hope you consider it.

Mayor Scharff: Does anyone else want to speak to this Amendment or can we vote on the Amendment?

Council Member Kou: I actually had my light on. Is it on?

Mayor Scharff: It is on, but I thought it was on for the previous item. If you want to speak to this, you can. Go ahead.

Council Member Kou: I do support this Amendment. The previous Motion is actually—the original Motion is actually not thoughtful, and it's not purposeful. As a matter of fact, it's rather disingenuous when we're trying to have more housing and to say it's \$75 versus the \$35. I would support this Amendment to raise the office/R&D to \$50.

Mayor Scharff: We're talking about the Amendment, right?

Council Member Kou: Yes, I am talking to the Amendment. I would support it because I don't think the Motion, original one, is actually reducing the balance that we're supposedly trying to achieve with office space and housing.

Council Member Fine: Point of privilege, Mr. Mayor. I don't know if there are any rules about this, but we should all be very careful about accusing others' intentions and whether we're being disingenuous or not.

Council Member Kou: I stand by what I say.

Mayor Scharff: Does anyone else want to speak to this or can we vote? Seeing no one else, let's vote. That fails on a 5-4 vote with Council Members DuBois, Kou, Filseth, and Holman voting yes.

AMENDMENT FAILED: 4-5 DuBois, Filseth, Holman, Kou yes

Mayor Scharff: Now, we're back to the main Motion. I've cleared the board. I've got Filseth, Tanaka, and Fine.

Council Member Fine: No, sorry.

Mayor Scharff: No, Filseth and Tanaka on the main Motion. I'm actually getting a little confused. Have you spoken to the main Motion?

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Council Member Filseth: No, I have not.

Mayor Scharff: I thought so. Council Member Filseth. I'm going to let Tanaka speak again because he didn't finish his. They were going to look for some stuff.

Council Member Filseth: Real briefly, just a couple of things on this. I understand the logic of the single-family housing thing and the revenue neutrality. That makes sense to me, and yet if you look at the gap between single-family housing at \$75 and condos at \$20, it feels like we're kind of anti-single-family housing. That's a big, big difference. Overall, I think we're actually better off with the status quo than we are with this Motion. As pointed out, our Affordable Housing Fund collections actually get leveraged by other funds. If we cut development fees, we're going to cut Affordable Housing Funds quite a bit more than our percentage. In anything we do up here on Council, we've got to ask a question, is this going to be good for Palo Alto residents. I think the community cares about housing, but actually when you push down on that, what consistently everybody really cares about is affordability. This Motion is very—I think it's a very anti-affordable housing Motion. I think the residents are actually better off with the status quo today even including the complexity. I'm not going to support the main Motion.

Mayor Scharff: Council Member Tanaka.

Council Member Tanaka: Council Member Fine actually help me find what the average is in this area. It's, I guess, \$10.55 for the area. He saw that was actually \$5 for Redwood City. This is for retail, just for everyone's reference. Ours is \$20, which is about 2X the average. We are making a very concerted effort to keep retail vibrant, healthy here in the City. One way to do that is to encourage more retail. I'd like to make a friendly Amendment that we basically take it from \$20 to make it average, basically \$10, \$10 per square foot. I wanted to see if this might be a friendly Amendment.

Council Member Fine: I don't think I can accept \$10. I would be willing to support you at \$15, but it would go to all of us here.

Council Member Tanaka: I think \$15 sounds better than \$20.

Council Member Wolbach: I'm not going to accept that.

Council Member Tanaka: Is there a second? It fails.

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AMENDMENT: Council Member Tanaka moved, seconded by Council Member XX to replace in Part B.iii. of the Motion, "\$20.37" with "\$15."

AMENDMENT FAILED DUE TO THE LACK OF A SECOND

Mayor Scharff: Council Member Holman—I can't remember—have you spoken to the main Motion?

Council Member Holman: No. I agree with comments that have been made about—I think this really is a step backwards. This is really not going to encourage our Affordable Housing Fund to be able to create more affordable housing. There are different terms for—it isn't what a regressive tax means, but this is a regressive tax, so to speak. I don't know what else to say about this. The fees that we charge are not going to preclude someone from wanting to be here as long as we take care of business and mind the quality of life in Palo Alto and make sure that this is a very desirable place to continue to be. That's what's going to help support a reasonable, which the proposed ones in my opinion are not, impact fee. With those impact fees, we need to be providing more affordable housing, something that every Council Member on this dais has talked about, the need for it. If we're reducing the amount of affordable housing impact fees that we're collecting, how are we going to do that? It seems to me that we're working at cross purposes. I really want us to stop talking to each other and listen, if we could please. We really are working at cross purposes to what our stated intentions are, to create more affordable housing, more housing, in this community. Lowering our affordable housing impact fees does just the opposite. I really wish Council Members would strongly reconsider—I strongly encourage Council Members to reconsider what the Motion is on the floor as it is counterproductive and the antithesis of what every Council Member on this dais has stated as a goal.

Mayor Scharff: Thank you, Council Member Holman. I do want to throw that out a little bit. I'm troubled, as we sit here today, a little bit about the fact that we're at 7 1/2 percent and then we move to—when I look at this, the February proposal was \$50, which I assume is similar to that 7 1/2 percent. I am troubled by the notion that we would lower our existing fees. I understand Council Member Wolbach's and Council Member Fine's concerns and some in the community that we want to encourage housing. That's why I think you wouldn't necessarily want to raise those. I am troubled that we might have less money in our Affordable Housing Fund and that so far people still build condos in Palo Alto. I guess I'm just going to try it and say I think we should move the market rate single-family attached to \$50 and we should move the market rate condo to \$50. I'll make the argument that rental housing is a different animal than a condo. It really is. The way it's

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pro forma'd is completely different. Maybe this will be a little too much in the weeds and little too complicated. The way I think about it is this. When you pro forma a condo project, you're outselling it, and the pro forma is completely different. When you're pro forma'ing an apartment project, you're holding it for the long term. Frankly, that's a good reason to make it a different fee. I would go with the \$50 for market rate and the \$50 for the condo. I would ask if you would accept that.

Council Member Fine: Tentatively, just two questions. One, you're bucketing the ownership housing more closely and separating it from rental. (crosstalk) ...

Mayor Scharff: That's correct.

Council Member Fine: ... purpose. A question to Staff. What would the 7 1/2 percent be on single-family attached and market rate condo, this comparison as you did earlier? I think this is probably close. I just want to make sure that the Mayor's purpose here is ...

Ms. Gitelman: Looking at Table 6 where we've analyzed the prototype projects that were studied in the Nexus Study, if you look at single-family attached using the 7.5 percent, it would generate 124,000 per unit. Using the \$50, it would be slightly less; it's 105,000 per unit. Condominiums, it's just about equal, 104,000 or 105,000 per unit.

Council Member Fine: I just did the math. It's pretty close. I'll accept it.

Council Member Wolbach: I'll accept it gratefully as well.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to replace in Part B.v. of the Motion, "\$35" with "\$50" and replace in Part B.vi. of the Motion, "\$20" with "\$50."

Mr. Keene: I think that's good.

Council Member Holman: One last question. The language that's—one place to find it is in the final Page of the presentation by Staff. I guess the other place is on Packet Page 343. Given what the impact fees are, looks like they're going to be, under what circumstances would it be that the fees generated would result in more affordable units than those required to be provided onsite? When would that ever happen given the impact fees are as low as they are, as proposed?

Ms. Gitelman: I think the example is the Maybell project we were talking about earlier, where the product type is very expensive. If you had the units

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onsite, you'd get—I don't know how many units—a couple of units onsite. If you paid the fees, you could use the money to generate many more apartments in smaller units that could be affordable. All we're doing with this language is giving the Council the discretion to have that discussion when a project comes before you and potentially opt for the fees instead of the onsite units if you wish.

Council Member Holman: I guess that gets to be a tricky consideration. If they get built at the time a development is built, then you get the units. If you collect an impact fee, by the time something gets built that money doesn't create the same product because land prices have gone up, construction prices have gone up. I'm just not sure when that really would be beneficial.

Mr. Keene: It'd be in the Council's discretion.

Council Member Holman: It is, it's one question. It's one topic. You started to say something, Jim? I'm sorry.

Mr. Keene: No, I just said it's still at the Council's discretion.

Council Member Holman: That's true. That's a good point. Thank you.

MOTION AS AMENDED RESTATED: Council Member Fine moved, seconded by Council Member Wolbach to adopt:

- A. An Ordinance amending the City's Below Market Housing Program; and
 - i. Add Section 16.65.080(B)(3), "notwithstanding Section 16.65.080 (A) (5), the City Council may accept fees in lieu of the alternatives in Paragraph 1 provided it makes a finding that special circumstances justify payment of fees over provision of ownership units, such as a finding that the fees generated would result in more affordable units than those required to be provided on site or that funds are needed to finance a pending affordable housing project;" and
- B. An Ordinance updating the housing impact and in-lieu fees including updating the housing impact and in-lieu fees as follows:
 - i. Set the Office/R&D housing impact fee at \$35 per square foot; and
 - ii. Maintain the Hotel housing impact fee at \$20.37 per square foot; and

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- iii. Maintain the Retail/Restaurant/Other housing impact fee at \$20.37 per square foot; and
- iv. Set the Market-rate single family detached in-lieu fee at \$75 per square foot; and
- v. Set the Market-rate single family attached in-lieu fee at \$50 per square foot; and
- vi. Set the Market-rate Condominium in-lieu fee at \$50 per square foot; and
- vii. Set the Market-rate rental housing impact fee at \$20 per square foot; and

C. Direct Staff to return in one year with a status update.

Mayor Scharff: Let's vote on the board. That passes on a 5-4 vote (inaudible).

MOTION AS AMENDED PASSED: 5-4 DuBois, Filseth, Holman, Kou no

Inter-Governmental Legislative Affairs

None.

Council Member Questions, Comments and Announcements

Mayor Scharff: Now, we come to Council Member Questions, Comments, and Announcements. Council Member DuBois.

Council Member DuBois: I just want to raise a concern about starting times. We took a poll tonight. I think we had five members who said they could come before 5:00, and all nine of us said we could come after 5:00. We have more members of the Council that have day jobs than we've had in previous years. I'd like to discuss at the Retreat not starting meetings before 5:00. I just think we're getting less participation because of that.

Mayor Scharff: I'll just point out we did have full participation with the exception of yourself tonight at 4:30.

Council Member DuBois: More people showed up than responded.

Council Member Kou: We really had to work our schedules. That's something you need to kind of listen to.

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Mayor Scharff: I do think we may need to discuss this, but we also need to realize that we can either go to 1:00 in the morning or we can start earlier, or we cannot pull things off Consent and then have 9-0 votes on them. We have a certain amount of work we need to get done. There's a tradeoff in all of this. We can either decide we're going to go really late, which has huge impacts on Staff. I think that's something we really need to be sensitive to. We have to think carefully about when we pull stuff off Consent and have 9-0 votes, was it really worthwhile to do that. It may be.

Council Member DuBois: I agree with that.

Mayor Scharff: It may absolutely be.

Council Member DuBois: We should also look at all the Mondays in a month, which is another possibility.

Council Member Kou: And all the canceled Council meetings where we do have a quorum. I think that's something that needs to be discussed as well. Thank you.

Mayor Scharff: Council Member Holman.

Council Member Holman: It was the same thing. I'll wait until we have the discussion at the Retreat. We'll make sure it does get agendaized, correct?

Mayor Scharff: All right.

Adjournment: The meeting was adjourned at 11:08 P.M.